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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Reorganized Debtor.

MARC S. KIRSCHNER, AS LITIGATION TRUSTEE
OF THE LITIGATION SUB-TRUST,

Plaintiff,

v.

JAMES D. DONDERO; MARK A. OKADA; SCOTT
ELLINGTON; ISAAC LEVENTON; GRANT JAMES
SCOTT III; FRANK WATERHOUSE; STRAND
ADVISORS, INC.; NEXPOINT ADVISORS, L.P.;
HIGHLAND CAPITAL MANAGEMENT FUND
ADVISORS, L.P.; DUGABOY INVESTMENT TRUST
AND NANCY DONDERO, AS TRUSTEE OF
DUGABOY INVESTMENT TRUST; GET GOOD
TRUST AND GRANT JAMES SCOTT III, AS
TRUSTEE OF GET GOOD TRUST; HUNTER
MOUNTAIN INVESTMENT TRUST; MARK &
PAMELA OKADA FAMILY TRUST – EXEMPT
TRUST #1 AND LAWRENCE TONOMURA AS
TRUSTEE OF MARK & PAMELA OKADA FAMILY
TRUST – EXEMPT TRUST #1; MARK & PAMELA
OKADA FAMILY TRUST – EXEMPT TRUST #2
AND LAWRENCE TONOMURA IN HIS CAPACITY
AS TRUSTEE OF MARK & PAMELA OKADA
FAMILY TRUST – EXEMPT TRUST #2; CLO
HOLDCO, LTD.; CHARITABLE DAF HOLDCO,
LTD.; CHARITABLE DAF FUND, LP.; HIGHLAND
DALLAS FOUNDATION; RAND PE FUND I, LP,
SERIES 1; MASSAND CAPITAL, LLC; MASSAND
CAPITAL, INC.; SAS ASSET RECOVERY, LTD.;
AND CPCM, LLC,

Defendants.

Chapter 11

Case No. 19-34054-sgj11

Adv. Pro. No. 21-03076-sgj

**APPENDIX IN SUPPORT OF DEFENDANT LEVENTON'S
MOTION TO DISMISS THE AMENDED COMPLAINT**

Isaac Leventon (“*Leventon*”), defendant in the above-captioned adversary proceeding, hereby files this Appendix in support of *Defendant Leventon’s Motion to Dismiss the Amended Complaint* and the related *Memorandum of Law in Support of Defendant Leventon’s Motion to Dismiss the Amended Complaint*, and respectfully requests that the Court take judicial notice of the documents contained herein.

Exhibit	Document	App. Page(s)
A	Declaration of Blaire Cahn in Support of Defendant Leventon’s Motion to Dismiss, dated July 11, 2022	App. 1-6
1.	Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified) [Bankr. No. 19-34054-sg11, Dkt. 1808]	App. 7-73
2.	Claimant Trust Agreement [Bankr. No. 19-34054-sg11, Dkt. 1811-2]	App. 74-111
3.	Litigation Sub-Trust Agreement [Bankr. No. 19-34054-sg11, Dkt. 1811-4]	App. 112-134
4.	Fourth Amended and Restated Agreement of Limited Partnership of HCMLP [Adv. Proc. No. 21-03003-sgj, Dkt. 109-8]	App. 135-171
5.	Debtor’s Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified), dated February 1, 2021 [Bankr. No. 19-34054-sg11, Dkt. 1875]	App. 172-220
6.	Final Term Sheet [Bankr. No. 19-34054-sg11, Dkt. 354]	App. 221-286
7.	Declaration of John Morris in Support of the Debtor’s Objection to the Official Committee of Unsecured Creditors’ Emergency Motion to Compel Production by the Debtor [Bankr. No. 19-34054-sg11, Dkt. 848-1, Ex. A]	App. 287-307
8.	Monthly Operating Report (May 2020) [Bankr. No. 19-34054-sg11, Dkt. 800]	App. 308-317
9.	Monthly Operating Report (June 2020) [Bankr. No. 19-34054-sg11, Dkt. 913]	App. 318-327
10.	Monthly Operating Report (July 2020) [Bankr. No. 19-34054-sg11, Dkt. 1014]	App. 328-337
11.	Monthly Operating Report (August 2020) [Bankr. No. 19-34054-sg11, Dkt. 1115]	App. 338-347

12.	Monthly Operating Report (September 2020) [Bankr. No. 19-34054-sg11, Dkt. 1329]	App. 348-357
13.	Monthly Operating Report (October 2020) [Bankr. No. 19-34054-sg11 Dkt. 1493]	App. 358-367
14.	Monthly Operating Report (November 2020) [Bankr. No. 19-34054-sg11, Dkt. 1710]	App. 368-377
15.	Monthly Operating Report (December 2020) [Bankr. No. 19-34054-sg11, Dkt. 1949]	App. 378-387
16.	Monthly Operating Report (January 2021) [Bankr. No. 19-34054-sg11, Dkt. 2030]	App. 388-397
17.	Motion for Allowance of Administrative Expense Claims [Bankr. No. 19-34054-sg11, Dkt. 2869]	App. 398-419
18.	Notice of Debtor's Amended Operating Protocols [Bankr. No. 19-34054-sg11, Dkt. 466]	App. 420-450
19.	Preliminary Term Sheet [Bankr. No. 19-34054-sg11, Dkt. 281-1]	App. 451-512
20.	Statement of Financial Affairs [Bankr. No. 19-34054-sg11, Dkt. 248]	App. 513-555
21.	Assignment Agreement between the Highland Claimant Trust and the Highland Litigation Sub-Trust	App. 556-558
22.	The Former Employee Defendants' Objection to Report and Recommendation [Distr. Ct. No. 22-cv-00203, Dkt. 16]	App. 559-579
23.	The Former Employee Defendants' Reply in Support of Objection to Report and Recommendation [Distr. Ct. No. 22-cv-00203, Dkt. 29]	App. 580-591
24.	Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations under Employee Bonus Plans and Granting Related Relief [Dkt. 177]	App. 592-609
25.	Isaac Leventon's 2018, 2017, and 2016 Compensation and Benefit Statements [Bankr. No. 19-34054-sg11, Dkt. 1796-13]	App. 610-613
26.	Appellee's Motion to Dismiss Appeal as Equitably Moot, pp. 11-14, Fifth Cir. Case No. 21-10449 [Doc. No. 00516045149]	App. 614-652

Dated: July 11, 2022

By: /s/ Michelle Hartmann

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Counsel for Isaac Leventon

EXHIBIT A

**Declaration of Blaire Cahn in Support of Defendant Leventon's Motion to Dismiss,
dated July 11, 2022**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Reorganized Debtor.

Chapter 11

Case No. 19-34054-sgj11

MARC S. KIRSCHNER, AS LITIGATION TRUSTEE
OF THE LITIGATION SUB-TRUST,

Plaintiff,

v.

JAMES D. DONDERO; MARK A. OKADA; SCOTT
ELLINGTON; ISAAC LEVENTON; GRANT JAMES
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ADVISORS, INC.; NEXPOINT ADVISORS, L.P.;
HIGHLAND CAPITAL MANAGEMENT FUND
ADVISORS, L.P.; DUGABOY INVESTMENT TRUST
AND NANCY DONDERO, AS TRUSTEE OF
DUGABOY INVESTMENT TRUST; GET GOOD
TRUST AND GRANT JAMES SCOTT III, AS
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HOLDCO, LTD.; CHARITABLE DAF HOLDCO,
LTD.; CHARITABLE DAF FUND, LP.; HIGHLAND
DALLAS FOUNDATION; RAND PE FUND I, LP,
SERIES 1; MASSAND CAPITAL, LLC; MASSAND
CAPITAL, INC.; SAS ASSET RECOVERY, LTD.;
AND CPCM, LLC,

Adv. Pro. No. 21-03076-sgj

Defendants.

DECLARATION OF BLAIRE CAHN
IN SUPPORT OF DEFENDANT LEVENTON'S MOTION TO DISMISS

1. I, Blaire Cahn, pursuant to 28 U.S.C. § 1746(a), under penalty of perjury, declare that the following is true and correct:

2. I am a partner in the law firm of Baker & McKenzie LLP, counsel to Isaac Leventon, defendant in the above-captioned adversary proceeding.

3. I submit this declaration to provide the Court with certain documents referenced in the *Memorandum of Law in Support of Defendant Leventon's Motion to Dismiss the Amended Complaint*, filed on July 11, 2022.

4. Attached hereto as Exhibit 1 is a true and correct copy of the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified)* [Bankr. No. 19-34054-sg11, Dkt. 1808].

5. Attached hereto as Exhibit 2 is a true and correct copy of the *Claimant Trust Agreement* [Bankr. No. 19-34054-sg11, Dkt. 1811-2].

6. Attached hereto as Exhibit 3 is a true and correct copy of the *Litigation Sub-Trust Agreement* [Bankr. No. 19-34054-sg11, Dkt. 1811-4].

7. Attached hereto as Exhibit 4 is a true and correct copy of the *Fourth Amended and Restated Agreement of Limited Partnership of HCMLP* [Adv. Proc. No. 21-03003-sgj, Dkt. 109-8].

8. Attached hereto as Exhibit 5 is a true and correct copy of the *Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified)*, dated as of February 1, 2021 [Bankr. No. 19-34054-sg11, Dkt. 1875].

9. Attached hereto as Exhibit 6 is a true and correct copy of the *Final Term Sheet* [Bankr. No. 19-34054-sg11, Dkt. 354].

10. Attached hereto as Exhibit 7 is a true and correct copy of the *Declaration of John Morris in Support of the Debtor's Objection to the Official Committee of Unsecured Creditors' Emergency Motion to Compel Production by the Debtor* [Bankr. No. 19-34054-sg11, Dkt. 848-1, Ex. A].

11. Attached hereto as Exhibit 8 is a true and correct copy of the *Monthly Operating Report (May 2020)* [Bankr. No. 19-34054-sg11, Dkt. 800].

12. Attached hereto as Exhibit 9 is a true and correct copy of the *Monthly Operating Report (June 2020)* [Bankr. No. 19-34054-sg11, Dkt. 913].

13. Attached hereto as Exhibit 10 is a true and correct copy of the *Monthly Operating Report (July 2020)* [Bankr. No. 19-34054-sg11, Dkt. 1014].

14. Attached hereto as Exhibit 11 is a true and correct copy of the *Monthly Operating Report (August 2020)* [Bankr. No. 19-34054-sg11, Dkt. 1115].

15. Attached hereto as Exhibit 12 is a true and correct copy of the *Monthly Operating Report (September 2020)* [Bankr. No. 19-34054-sg11, Dkt. 1329].

16. Attached hereto as Exhibit 13 is a true and correct copy of the *Monthly Operating Report (October 2020)* [Bankr. No. 19-34054-sg11, Dkt. 1493].

17. Attached hereto as Exhibit 14 is a true and correct copy of the *Monthly Operating Report (November 2020)* [Bankr. No. 19-34054-sg11, Dkt. 1710].

18. Attached hereto as Exhibit 15 is a true and correct copy of the *Monthly Operating Report (December 2020)* [Bankr. No. 19-34054-sg11, Dkt. 1949].

19. Attached hereto as Exhibit 16 is a true and correct copy of the *Monthly Operating Report (January 2021)* [Bankr. No. 19-34054-sg11, Dkt. 2030].

20. Attached hereto as Exhibit 17 is a true and correct copy of the *Motion for Allowance of Administrative Expense Claims* [Bankr. No. 19-34054-sg11, Dkt. 2869].

21. Attached hereto as Exhibit 18 is a true and correct copy of the *Notice of Debtor's Amended Operating Protocols* [Dkt. 466].

22. Attached hereto as Exhibit 19 is a true and correct copy of the *Preliminary Term Sheet* [Dkt. 281-1].

23. Attached hereto as Exhibit 20 is a true and correct copy of the *Statement of Financial Affairs* [Dkt. 248].

24. Attached hereto as Exhibit 21 is a true and correct copy of the *Assignment Agreement* between the Highland Claimant Trust and the Highland Litigation Sub-Trust.

25. Attached hereto as Exhibit 22 is a true and correct copy of the *The Former Employee Defendants' Objection to Report and Recommendation* [Distr. Ct. No. 22-cv-00203, Dkt. 16]

26. Attached hereto as Exhibit 23 is a true and correct copy of the *The Former Employee Defendants' Reply in Support of Objection to Report and Recommendation* [Distr. Ct. No. 22-cv-00203, Dkt. 29]

27. Attached hereto as Exhibit 24 is a true and correct copy of the *Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations under Employee Bonus Plans and Granting Related Relief* [Dkt. 177]

28. Attached hereto as Exhibit 25 is a true and correct copy of *Isaac Leventon's 2018, 2017, and 2016 Compensation and Benefit Statements* [Bankr. No. 19-34054-sg11, Dkt. 1796-13].

29. Attached hereto as Exhibit 26 is a true and correct copy of *Appellee's Motion to Dismiss Appeal as Equitably Moot*, Fifth Cir. Case No. 21-10449 [Doc. No. 00516045149].

Executed on July 11, 2022 in New York, New York.

By: /s/ Blaire Cahn

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(Admitted pro hac vice)

Counsel for Isaac Leventon

EXHIBIT 1

**Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.
(As Modified)**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,¹

Debtor.

)
) Chapter 11
)
) Case No. 19-34054-sgj11
)
)
)
)

**FIFTH AMENDED PLAN OF REORGANIZATION OF HIGHLAND
CAPITAL MANAGEMENT, L.P. (AS MODIFIED)**

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¹ The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



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DEBTOR'S CHAPTER 11 PLAN OF REORGANIZATION

HIGHLAND CAPITAL MANAGEMENT, L.P., as debtor and debtor-in-possession in the above-captioned case (the “Debtor”), proposes the following chapter 11 plan of reorganization (the “Plan”) for, among other things, the resolution of the outstanding Claims against, and Equity Interests in, the Debtor. Unless otherwise noted, capitalized terms used in this Plan have the meanings set forth in Article I of this Plan. The Debtor is the proponent of this Plan within the meaning of section 1129 of the Bankruptcy Code.

Reference is made to the Disclosure Statement (as such term is defined herein and distributed contemporaneously herewith) for a discussion of the Debtor’s history, business, results of operations, historical financial information, projections and assets, and for a summary and analysis of this Plan and the treatment provided for herein. There also are other agreements and documents that may be Filed with the Bankruptcy Court that are referenced in this Plan or the Disclosure Statement as Exhibits and Plan Documents. All such Exhibits and Plan Documents are incorporated into and are a part of this Plan as if set forth in full herein. Subject to the other provisions of this Plan, and in accordance with the requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtor reserves the right to alter, amend, modify, revoke, or withdraw this Plan prior to the Effective Date.

If this Plan cannot be confirmed, for any reason, then subject to the terms set forth herein, this Plan may be revoked.

ARTICLE I.

RULES OF INTERPRETATION, COMPUTATION OF TIME,

GOVERNING LAW AND DEFINED TERMS

A. Rules of Interpretation, Computation of Time and Governing Law

For purposes hereof: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document, as previously amended, modified or supplemented, if applicable, shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented in accordance with its terms; (d) unless otherwise specified, all references herein to “Articles,” “Sections,” “Exhibits” and “Plan Documents” are references to Articles, Sections, Exhibits and Plan Documents hereof or hereto; (e) unless otherwise stated, the words “herein,” “hereof,” “hereunder” and “hereto” refer to this Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) any reference to an Entity as a Holder of a Claim or Equity Interest includes such Entity’s successors and assigns;

(h) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (i) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; and (j) “\$” or “dollars” means Dollars in lawful currency of the United States of America. The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

B. Defined Terms

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. “*Acis*” means collectively Acis Capital Management, L.P. and Acis Capital Management GP, LLP.

2. “*Administrative Expense Claim*” means any Claim for costs and expenses of administration of the Chapter 11 Case that is Allowed pursuant to sections 503(b), 507(a)(2), 507(b) or 1114(2) of the Bankruptcy Code, including, without limitation, (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the business of the Debtor; and (b) all fees and charges assessed against the Estate pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code, and that have not already been paid by the Debtor during the Chapter 11 Case and a Professional Fee Claim.

3. “*Administrative Expense Claims Bar Date*” means, with respect to any Administrative Expense Claim (other than a Professional Fee Claim) becoming due on or prior to the Effective Date, 5:00 p.m. (prevailing Central Time) on such date that is forty-five days after the Effective Date.

4. “*Administrative Expense Claims Objection Deadline*” means, with respect to any Administrative Expense Claim, the later of (a) ninety (90) days after the Effective Date and (b) sixty (60) days after the timely Filing of the applicable request for payment of such Administrative Expense Claim; *provided, however*, that the Administrative Expense Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

5. “*Affiliate*” of any Person means any Entity that, with respect to such Person, either (i) is an “affiliate” as defined in section 101(2) of the Bankruptcy Code, or (ii) is an “affiliate” as defined in Rule 405 of the Securities Act of 1933, or (iii) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For the purposes of this definition, the term “control” (including, without limitation, the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction in any respect of the management or policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

6. “*Allowed*” means, with respect to any Claim, except as otherwise provided in the Plan: (a) any Claim that is evidenced by a Proof of Claim that has been timely Filed by the

Bar Date, or that is not required to be evidenced by a Filed Proof of Claim under the Bankruptcy Code or a Final Order; (b) a Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed and for which no Proof of Claim has been timely filed; (c) a Claim Allowed pursuant to the Plan or an order of the Bankruptcy Court that is not stayed pending appeal; or (d) a Claim that is not Disputed (including for which a Proof of Claim has been timely filed in a liquidated and noncontingent amount that has not been objected to by the Claims Objection Deadline or as to which any such objection has been overruled by Final Order); *provided, however*, that with respect to a Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that, with respect to such Claim, no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim shall have been Allowed as set forth above.

7. “*Allowed Claim or Equity Interest*” means a Claim or an Equity Interest of the type that has been Allowed.

8. “*Assets*” means all of the rights, titles, and interest of the Debtor, Reorganized Debtor, or Claimant Trust, in and to property of whatever type or nature, including, without limitation, real, personal, mixed, intellectual, tangible, and intangible property, the Debtor’s books and records, and the Causes of Action.

9. “*Available Cash*” means any Cash in excess of the amount needed for the Claimant Trust and Reorganized Debtor to maintain business operations as determined in the sole discretion of the Claimant Trustee.

10. “*Avoidance Actions*” means any and all avoidance, recovery, subordination or other actions or remedies that may be brought by and on behalf of the Debtor or its Estate under the Bankruptcy Code or applicable nonbankruptcy law, including, without limitation, actions or remedies arising under sections 502, 510, 544, 545, and 547-553 of the Bankruptcy Code or under similar state or federal statutes and common law, including fraudulent transfer laws

11. “*Ballot*” means the form(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

12. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended from time to time and as applicable to the Chapter 11 Case.

13. “*Bankruptcy Court*” means the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, or any other court having jurisdiction over the Chapter 11 Case.

14. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, in each case as amended from time to time and as applicable to the Chapter 11 Case.

15. “*Bar Date*” means the applicable deadlines set by the Bankruptcy Court for the filing of Proofs of Claim against the Debtor as set forth in the Bar Date Order, which deadlines may be or have been extended for certain Claimants by order of the Bankruptcy Court.

16. “*Bar Date Order*” means the *Order (I) Establishing Bar Dates for Filing Proofs of Claim and (II) Approving the Form and Manner of Notice Thereof* [D.I. 488].

17. “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

18. “*Cash*” means the legal tender of the United States of America or the equivalent thereof.

19. “*Causes of Action*” means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, Lien, indemnity, contribution, guaranty, suit, obligation, liability, debt, damage, judgment, account, defense, remedy, offset, power, privilege, license and franchise of any kind or character whatsoever, in each case whether known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, secured or unsecured, assertable directly or derivatively (including, without limitation, under alter ego theories), whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity or pursuant to any other theory of law. For the avoidance of doubt, Cause of Action includes, without limitation,: (a) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (b) the right to object to Claims or Equity Interests; (c) any claim pursuant to section 362 or chapter 5 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress and usury, and any other defenses set forth in section 558 of the Bankruptcy Code; (e) any claims under any state or foreign law, including, without limitation, any fraudulent transfer or similar claims; (f) the Avoidance Actions, and (g) the Estate Claims. The Causes of Action include, without limitation, the Causes of Action belonging to the Debtor’s Estate listed on the schedule of Causes of Action to be filed with the Plan Supplement.

20. “*CEO/CRO*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer.

21. “*Chapter 11 Case*” means the Debtor’s case under chapter 11 of the Bankruptcy Code commenced on the Petition Date in the Delaware Bankruptcy Court and transferred to the Bankruptcy Court on December 4, 2019, and styled *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj-11.

22. “*Claim*” means any “claim” against the Debtor as defined in section 101(5) of the Bankruptcy Code.

23. “*Claims Objection Deadline*” means the date that is 180 days after the Confirmation Date; *provided, however*, the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

24. “*Claimant Trust*” means the trust established for the benefit of the Claimant Trust Beneficiaries on the Effective Date in accordance with the terms of this Plan and the Claimant Trust Agreement.

25. “*Claimant Trust Agreement*” means the agreement Filed in the Plan Supplement establishing and delineating the terms and conditions of the Claimant Trust.

26. “*Claimant Trust Assets*” means (i) other than the Reorganized Debtor Assets (which are expressly excluded from this definition), all other Assets of the Estate, including, but not limited to, all Causes of Action, Available Cash, any proceeds realized or received from such Assets, all rights of setoff, recoupment, and other defenses with respect, relating to, or arising from such Assets, (ii) any Assets transferred by the Reorganized Debtor to the Claimant Trust on or after the Effective Date, (iii) the limited partnership interests in the Reorganized Debtor, and (iv) the ownership interests in New GP LLC. For the avoidance of doubt, any Causes of Action that, for any reason, are not capable of being transferred to the Claimant Trust shall constitute Reorganized Debtor Assets.

27. “*Claimant Trust Beneficiaries*” means the Holders of Allowed General Unsecured Claims, Holders of Allowed Subordinated Claims, including, upon Allowance, Disputed General Unsecured Claims and Disputed Subordinated Claims that become Allowed following the Effective Date, and, only upon certification by the Claimant Trustee that the Holders of such Claims have been paid indefeasibly in full plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, post-petition interest from the Petition Date at the Federal Judgment Rate in accordance with the terms and conditions set forth in the Claimant Trust Agreement and all Disputed Claims in Class 8 and Class 9 have been resolved, Holders of Allowed Class B/C Limited Partnership Interests, and Holders of Allowed Class A Limited Partnership Interests.

28. “*Claimant Trustee*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer, or such other Person identified in the Plan Supplement who will act as the trustee of the Claimant Trust in accordance with the Plan, the Confirmation Order, and Claimant Trust Agreement or any replacement trustee pursuant to (and in accordance with) the Claimant Trust Agreement. The Claimant Trustee shall be responsible for, among other things, monetizing the Estate’s investment assets, resolving Claims (other than those Claims assigned to the Litigation Sub-Trust for resolution), and, as the sole officer of New GP LLC, winding down the Reorganized Debtor’s business operations.

29. “*Claimant Trust Expenses*” means all reasonable legal and other reasonable professional fees, costs, and expenses incurred by the Trustees on account of administration of the Claimant Trust, including any reasonable administrative fees and expenses, reasonable attorneys’ fees and expenses, reasonable insurance costs, taxes, reasonable escrow expenses, and other expenses.

30. “*Claimant Trust Interests*” means the non-transferable interests in the Claimant Trust that are issued to the Claimant Trust Beneficiaries pursuant to this Plan; *provided, however*, Holders of Class A Limited Partnership Interests, Class B Limited Partnership Interests, and Class C Limited Partnership Interests will not be deemed to hold

Claimant Trust Interests unless and until the Contingent Claimant Trust Interests distributed to such Holders vest in accordance with the terms of this Plan and the Claimant Trust Agreement.

31. “*Claimant Trust Oversight Committee*” means the committee of five Persons established pursuant to ARTICLE IV of this Plan to oversee the Claimant Trustee’s performance of its duties and otherwise serve the functions described in this Plan and the Claimant Trust Agreement.

32. “*Class*” means a category of Holders of Claims or Equity Interests as set forth in ARTICLE III hereof pursuant to section 1122(a) of the Bankruptcy Code.

33. “*Class A Limited Partnership Interest*” means the Class A Limited Partnership Interests as defined in the Limited Partnership Agreement held by The Dugaboy Investment Trust, Mark and Pamela Okada Family Trust – Exempt Trust 2, Mark and Pamela Okada – Exempt Descendants’ Trust, and Mark Kiyoshi Okada, and the General Partner Interest.

34. “*Class B Limited Partnership Interest*” means the Class B Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

35. “*Class B/C Limited Partnership Interests*” means, collectively, the Class B Limited Partnership and Class C Limited Partnership Interests.

36. “*Class C Limited Partnership Interest*” means the Class C Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

37. “*Committee*” means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee pursuant to 11 U.S.C. § 1102(a)(1) on October 29, 2019 [D.I. 65], consisting of (i) the Redeemer Committee of Highland Crusader Fund, (ii) Meta-e Discovery, (iii) UBS, and (iv) Acis.

38. “*Confirmation Date*” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

39. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

40. “*Confirmation Order*” means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

41. “*Convenience Claim*” means any prepetition, liquidated, and unsecured Claim against the Debtor that as of the Confirmation Date is less than or equal to \$1,000,000 or any General Unsecured Claim that makes the Convenience Class Election. For the avoidance of doubt, the Reduced Employee Claims will be Convenience Claims.

42. “*Convenience Claim Pool*” means the \$13,150,000 in Cash that shall be available upon the Effective Date for distribution to Holders of Convenience Claims under the Plan as set forth herein. Any Cash remaining in the Convenience Claim Pool after all distributions on account of Convenience Claims have been made will be transferred to the Claimant Trust and administered as a Claimant Trust Asset.

43. “*Convenience Class Election*” means the option provided to each Holder of a General Unsecured Claim that is a liquidated Claim as of the Confirmation Date on their Ballot to elect to reduce their claim to \$1,000,000 and receive the treatment provided to Convenience Claims.

44. “*Contingent Claimant Trust Interests*” means the contingent Claimant Trust Interests to be distributed to Holders of Class A Limited Partnership Interests, Holders of Class B Limited Partnership Interests, and Holders of Class C Limited Partnership Interests in accordance with this Plan, the rights of which shall not vest, and consequently convert to Claimant Trust Interests, unless and until the Claimant Trustee Files a certification that all holders of Allowed General Unsecured Claims have been paid indefeasibly in full, plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, all accrued and unpaid post-petition interest from the Petition Date at the Federal Judgment Rate and all Disputed Claims in Class 8 and Class 9 have been resolved. As set forth in the Claimant Trust Agreement, the Contingent Claimant Trust Interests distributed to the Holders of Class A Limited Partnership Interests will be subordinated to the Contingent Claimant Trust Interests distributed to the Holders of Class B/C Limited Partnership Interests.

45. “*Debtor*” means Highland Capital Management, L.P. in its capacity as debtor and debtor in possession in the Chapter 11 Case.

46. “*Delaware Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware.

47. “*Disclosure Statement*” means that certain *Disclosure Statement for Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, as amended, supplemented, or modified from time to time, which describes this Plan, including all exhibits and schedules thereto and references therein that relate to this Plan.

48. “*Disputed*” means with respect to any Claim or Equity Interest, any Claim or Equity Interest that is not yet Allowed.

49. “*Disputed Claims Reserve*” means the appropriate reserve(s) or account(s) to be established on the Initial Distribution Date and maintained by the Claimant Trustee for distributions on account of Disputed Claims that may subsequently become an Allowed Claim.

50. “*Disputed Claims Reserve Amount*” means, for purposes of determining the Disputed Claims Reserve, the Cash that would have otherwise been distributed to a Holder of a Disputed Claim at the time any distributions of Cash are made to the Holders of Allowed Claims. The amount of the Disputed Claim upon which the Disputed Claims Reserve is calculated shall be: (a) the amount set forth on either the Schedules or the filed Proof of Claim, as applicable; (b) the amount agreed to by the Holder of the Disputed Claim and the Claimant Trustee or

Reorganized Debtor, as applicable; (c) the amount ordered by the Bankruptcy Court if it enters an order disallowing, in whole or in part, a Disputed Claim; or (d) as otherwise ordered by the Bankruptcy Court, including an order estimating the Disputed Claim.

51. “*Distribution Agent*” means the Claimant Trustee, or any party designated by the Claimant Trustee to serve as distribution agent under this Plan.

52. “*Distribution Date*” means the date or dates determined by the Reorganized Debtor or the Claimant Trustee, as applicable, on or after the Initial Distribution Date upon which the Distribution Agent shall make distributions to holders of Allowed Claims and Interests entitled to receive distributions under the Plan.

53. “*Distribution Record Date*” means the date for determining which Holders of Claims and Equity Interests are eligible to receive distributions hereunder, which date shall be the Effective Date or such later date determined by the Bankruptcy Court.

54. “*Effective Date*” means the Business Day that this Plan becomes effective as provided in ARTICLE VIII hereof.

55. “*Employees*” means the employees of the Debtor set forth in the Plan Supplement.

56. “*Enjoined Parties*” means (i) all Entities who have held, hold, or may hold Claims against or Equity Interests in the Debtor (whether or not proof of such Claims or Equity Interests has been filed and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan), (ii) James Dondero (“Dondero”), (iii) any Entity that has appeared and/or filed any motion, objection, or other pleading in this Chapter 11 Case regardless of the capacity in which such Entity appeared and any other party in interest, (iv) any Related Entity, and (v) the Related Persons of each of the foregoing.

57. “*Entity*” means any “entity” as defined in section 101(15) of the Bankruptcy Code and also includes any Person or any other entity.

58. “*Equity Interest*” means any Equity Security in the Debtor, including, without limitation, all issued, unissued, authorized or outstanding partnership interests, shares, of stock or limited company interests, the Class A Limited Partnership Interests, the Class B Limited Partnership Interests, and the Class C Limited Partnership Interests.

59. “*Equity Security*” means an “equity security” as defined in section 101(16) of the Bankruptcy Code.

60. “*Estate*” means the bankruptcy estate of the Debtor created by virtue of section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

61. “*Estate Claims*” has the meaning given to it in Exhibit A to the *Notice of Final Term Sheet* [D.I. 354].

62. “*Exculpated Parties*” means, collectively, (i) the Debtor and its successors and assigns, direct and indirect majority-owned subsidiaries, and the Managed Funds, (ii) the Employees, (iii) Strand, (iv) the Independent Directors, (v) the Committee, (vi) the members of the Committee (in their official capacities), (vii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (viii) the CEO/CRO; and (ix) the Related Persons of each of the parties listed in (iv) through (viii); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), NexBank, SSB (and any of its subsidiaries), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Exculpated Party.”

63. “*Executory Contract*” means a contract to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

64. “*Exhibit*” means an exhibit annexed hereto or to the Disclosure Statement (as such exhibits are amended, modified or otherwise supplemented from time to time), which are incorporated by reference herein.

65. “*Federal Judgment Rate*” means the post-judgment interest rate set forth in 28 U.S.C. § 1961 as of the Effective Date.

66. “*File*” or “*Filed*” or “*Filing*” means file, filed or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Case.

67. “*Final Order*” means an order or judgment of the Bankruptcy Court, which is in full force and effect, and as to which the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument or rehearing shall then be pending or as to which any right to appeal, petition for *certiorari*, new trial, reargument, or rehearing shall have been waived in writing in form and substance satisfactory to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, or, in the event that an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order of the Bankruptcy Court shall have been determined by the highest court to which such order was appealed, or *certiorari*, new trial, reargument or rehearing shall have been denied and the time to take any further appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be Filed with respect to such order shall not preclude such order from being a Final Order.

68. “*Frontier Secured Claim*” means the loan from Frontier State Bank to the Debtor in the principal amount of \$7,879,688.00 made pursuant to that certain First Amended and Restated Loan Agreement, dated March 29, 2018.

69. “*General Partner Interest*” means the Class A Limited Partnership Interest held by Strand, as the Debtor’s general partner.

70. “*General Unsecured Claim*” means any prepetition Claim against the Debtor that is not Secured and is not a/an: (a) Administrative Expense Claim; (b) Professional Fee Claim; (c) Priority Tax Claim; (d) Priority Non-Tax Claim; or (e) Convenience Claim.

71. “*Governmental Unit*” means a “governmental unit” as defined in section 101(27) of the Bankruptcy Code.

72. “*GUC Election*” means the option provided to each Holder of a Convenience Claim on their Ballot to elect to receive the treatment provided to General Unsecured Claims.

73. “*Holder*” means an Entity holding a Claim against, or Equity Interest in, the Debtor.

74. “*Impaired*” means, when used in reference to a Claim or Equity Interest, a Claim or Equity Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

75. “*Independent Directors*” means John S. Dubel, James P. Seery, Jr., and Russell Nelms, the independent directors of Strand appointed on January 9, 2020, and any additional or replacement directors of Strand appointed after January 9, 2020, but prior to the Effective Date.

76. “*Initial Distribution Date*” means, subject to the “Treatment” sections in ARTICLE III hereof, the date that is on or as soon as reasonably practicable after the Effective Date, when distributions under this Plan shall commence to Holders of Allowed Claims and Equity Interests.

77. “*Insurance Policies*” means all insurance policies maintained by the Debtor as of the Petition Date.

78. “*Jefferies Secured Claim*” means any Claim in favor of Jefferies, LLC, arising under that certain Prime Brokerage Customer Agreement, dated May 24, 2013, between the Debtor and Jefferies, LLC, that is secured by the assets, if any, maintained in the prime brokerage account created by such Prime Brokerage Customer Agreement.

79. “*Lien*” means a “lien” as defined in section 101(37) of the Bankruptcy Code and, with respect to any asset, includes, without limitation, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

80. “*Limited Partnership Agreement*” means that certain Fourth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated December 24, 2015, as amended.

81. “*Litigation Sub-Trust*” means the sub-trust established within the Claimant Trust or as a wholly –owned subsidiary of the Claimant Trust on the Effective Date in each case in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement and Claimant Trust Agreement. As set forth in the Litigation Sub-Trust Agreement, the Litigation Sub-Trust shall hold the Claimant Trust Assets that are Estate Claims.

82. “*Litigation Sub-Trust Agreement*” means the agreement filed in the Plan Supplement establishing and delineating the terms and conditions of the Litigation Sub-Trust.

83. “*Litigation Trustee*” means the trustee appointed by the Committee and reasonably acceptable to the Debtor who shall be responsible for investigating, litigating, and settling the Estate Claims for the benefit of the Claimant Trust in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement.

84. “*Managed Funds*” means Highland Multi-Strategy Credit Fund, L.P., Highland Restoration Capital Partners, L.P., and any other investment vehicle managed by the Debtor pursuant to an Executory Contract assumed pursuant to this Plan.

85. “*New Frontier Note*” means that promissory note to be provided to the Allowed Holders of Class 2 Claims under this Plan and any other documents or security agreements securing the obligations thereunder.

86. “*New GP LLC*” means a limited liability company incorporated in the State of Delaware pursuant to the New GP LLC Documents to serve as the general partner of the Reorganized Debtor on the Effective Date.

87. “*New GP LLC Documents*” means the charter, operating agreement, and other formational documents of New GP LLC.

88. “*Ordinary Course Professionals Order*” means that certain *Order Pursuant to Sections 105(a), 327, 328, and 330 of the Bankruptcy Code Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course* [D.I. 176].

89. “*Other Unsecured Claim*” means any Secured Claim other than the Jefferies Secured Claim and the Frontier Secured Claim.

90. “*Person*” means a “person” as defined in section 101(41) of the Bankruptcy Code and also includes any natural person, individual, corporation, company, general or limited partnership, limited liability company, unincorporated organization firm, trust, estate, business trust, association, joint stock company, joint venture, government, governmental agency, Governmental Unit or any subdivision thereof, the United States Trustee, or any other entity, whether acting in an individual, fiduciary or other capacity.

91. “*Petition Date*” means October 16, 2019.

92. “*Plan*” means this *Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, including the Exhibits and the Plan Documents and all supplements, appendices,

and schedules thereto, either in its present form or as the same may be altered, amended, modified or otherwise supplemented from time to time.

93. “*Plan Distribution*” means the payment or distribution of consideration to Holders of Allowed Claims and Allowed Equity Interests under this Plan.

94. “*Plan Documents*” means any of the documents, other than this Plan, but including, without limitation, the documents to be filed with the Plan Supplement, to be executed, delivered, assumed, or performed in connection with the occurrence of the Effective Date, and as may be modified consistent with the terms hereof with the consent of the Committee.

95. “*Plan Supplement*” means the ancillary documents necessary for the implementation and effectuation of the Plan, including, without limitation, (i) the form of Claimant Trust Agreement, (ii) the forms of New GP LLC Documents, (iii) the form of Reorganized Limited Partnership Agreement, (iv) the Sub-Servicer Agreement (if applicable), (v) the identity of the initial members of the Claimant Trust Oversight Committee, (vi) the form of Litigation Sub-Trust Agreement; (vii) the schedule of retained Causes of Action; (viii) the New Frontier Note, (ix) the schedule of Employees; (x) the form of Senior Employee Stipulation,; and (xi) the schedule of Executory Contracts and Unexpired Leases to be assumed pursuant to this Plan, which, in each case, will be in form and substance reasonably acceptable to the Debtor and the Committee.

96. “*Priority Non-Tax Claim*” means a Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code, including any Claims for paid time-off entitled to priority under section 507(a)(4) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

97. “*Pro Rata*” means the proportion that (a) the Allowed amount of a Claim or Equity Interest in a particular Class bears to (b) the aggregate Allowed amount of all Claims or Equity Interests in such Class.

98. “*Professional*” means (a) any Entity employed in the Chapter 11 Case pursuant to section 327, 328 363 or 1103 of the Bankruptcy Code or otherwise and (b) any Entity seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case pursuant to sections 327, 328, 330, 331, 363, 503(b), 503(b)(4) and 1103 of the Bankruptcy Code.

99. “*Professional Fee Claim*” means a Claim under sections 328, 330(a), 331, 363, 503 or 1103 of the Bankruptcy Code, with respect to a particular Professional, for compensation for services rendered or reimbursement of costs, expenses or other charges incurred after the Petition Date and prior to and including the Effective Date.

100. “*Professional Fee Claims Bar Date*” means with respect to Professional Fee Claims, the Business Day which is sixty (60) days after the Effective Date or such other date as approved by order of the Bankruptcy Court.

101. “*Professional Fee Claims Objection Deadline*” means, with respect to any Professional Fee Claim, thirty (30) days after the timely Filing of the applicable request for payment of such Professional Fee Claim.

102. “*Professional Fee Reserve*” means the reserve established and funded by the Claimant Trustee pursuant this Plan to provide sufficient funds to satisfy in full unpaid Allowed Professional Fee Claims.

103. “*Proof of Claim*” means a written proof of Claim or Equity Interest Filed against the Debtor in the Chapter 11 Case.

104. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

105. “*Protected Parties*” means, collectively, (i) the Debtor and its successors and assigns, direct and indirect majority-owned subsidiaries, and the Managed Funds, (ii) the Employees, (iii) Strand, (iv) the Reorganized Debtor, (v) the Independent Directors, (vi) the Committee, (vii) the members of the Committee (in their official capacities), (viii) the Claimant Trust, (ix) the Claimant Trustee, (x) the Litigation Sub-Trust, (xi) the Litigation Trustee, (xii) the members of the Claimant Trust Oversight Committee (in their official capacities), (xiii) New GP LLC, (xiv) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (xv) the CEO/CRO; and (xvi) the Related Persons of each of the parties listed in (iv) through (xv); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), NexBank, SSB (and any of its subsidiaries), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Protected Party.”

106. “*PTO Claims*” means any Claim for paid time off in favor of any Debtor employee in excess of the amount that would qualify as a Priority Non-Tax Claim under section 507(a)(4) of the Bankruptcy Code.

107. “*Reduced Employee Claims*” has the meaning set forth in ARTICLE IX.D.

108. “*Reinstated*” means, with respect to any Claim or Equity Interest, (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the Holder of such Claim or Equity Interest in accordance with section 1124 of the Bankruptcy Code or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim or Equity Interest to demand or receive accelerated payment of such Claim or Equity Interest after the occurrence of a default: (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) of the Bankruptcy Code expressly does not require to be cured; (ii) reinstating the maturity of such Claim or Equity Interest as such maturity existed before such default; (iii) compensating the Holder of such Claim or Equity Interest for any

damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; (iv) if such Claim or Equity Interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A) of the Bankruptcy Code, compensating the Holder of such Claim or Equity Interest (other than any Debtor or an insider of any Debtor) for any actual pecuniary loss incurred by such Holder as a result of such failure; and (v) not otherwise altering the legal, equitable, or contractual rights to which such Claim entitles the Holder of such Claim.

109. “*Rejection Claim*” means any Claim for monetary damages as a result of the rejection of an executory contract or unexpired lease pursuant to the Confirmation Order.

110. “*Related Entity*” means, without duplication, (a) Dondero, (b) Mark Okada (“Okada”), (c) Grant Scott (“Scott”), (d) Hunter Covitz (“Covitz”), (e) any entity or person that was an insider of the Debtor on or before the Petition Date under Section 101(31) of the Bankruptcy Code, including, without limitation, any entity or person that was a non-statutory insider, (f) any entity that, after the Effective Date, is an insider or Affiliate of one or more of Dondero, Okada, Scott, Covitz, or any of their respective insiders or Affiliates, including, without limitation, The Dugaboy Investment Trust, (g) the Hunter Mountain Investment Trust and any of its direct or indirect parents, (h) the Charitable Donor Advised Fund, L.P., and any of its direct or indirect subsidiaries, and (i) Affiliates of the Debtor and any other Entities listed on the Related Entity List.

111. “*Related Entity List*” means that list of Entities filed with the Plan Supplement.

112. “*Related Persons*” means, with respect to any Person, such Person’s predecessors, successors, assigns (whether by operation of law or otherwise), and each of their respective present, future, or former officers, directors, employees, managers, managing members, members, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, subsidiaries, divisions, management companies, heirs, agents, and other representatives, in each case solely in their capacity as such.

113. “*Released Parties*” means, collectively, (i) the Independent Directors; (ii) Strand (solely from the date of the appointment of the Independent Directors through the Effective Date); (iii) the CEO/CRO; (iv) the Committee; (v) the members of the Committee (in their official capacities), (vi) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case; and (vii) the Employees.

114. “*Reorganized Debtor*” means the Debtor, as reorganized pursuant to this Plan on and after the Effective Date.

115. “*Reorganized Debtor Assets*” means any limited and general partnership interests held by the Debtor, the management of the Managed Funds and those Causes of Action (including, without limitation, claims for breach of fiduciary duty), that, for any reason, are not capable of being transferred to the Claimant Trust. For the avoidance of doubt, “Reorganized

Debtor Assets” includes any partnership interests or shares of Managed Funds held by the Debtor but does not include the underlying portfolio assets held by the Managed Funds.

116. “*Reorganized Limited Partnership Agreement*” means that certain Fifth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., by and among the Claimant Trust, as limited partner, and New GP LLC, as general partner, Filed with the Plan Supplement.

117. “*Restructuring*” means the restructuring of the Debtor, the principal terms of which are set forth in this Plan and the Disclosure Statement.

118. “*Retained Employee Claim*” means any Claim filed by a current employee of the Debtor who will be employed by the Reorganized Debtor upon the Effective Date.

119. “*Schedules*” means the schedules of Assets and liabilities, statements of financial affairs, lists of Holders of Claims and Equity Interests and all amendments or supplements thereto Filed by the Debtor with the Bankruptcy Court [D.I. 247].

120. “*Secured*” means, when referring to a Claim: (a) secured by a Lien on property in which the Debtor’s Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in the interest of the Debtor’s Estate in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or (b) Allowed pursuant to the Plan as a Secured Claim.

121. “*Security*” or “*security*” means any security as such term is defined in section 101(49) of the Bankruptcy Code.

122. “*Senior Employees*” means the senior employees of the Debtor Filed in the Plan Supplement.

123. “*Senior Employee Stipulation*” means the agreements filed in the Plan Supplement between each Senior Employee and the Debtor.

124. “*Stamp or Similar Tax*” means any stamp tax, recording tax, personal property tax, conveyance fee, intangibles or similar tax, real estate transfer tax, sales tax, use tax, transaction privilege tax (including, without limitation, such taxes on prime contracting and owner-builder sales), privilege taxes (including, without limitation, privilege taxes on construction contracting with regard to speculative builders and owner builders), and other similar taxes imposed or assessed by any Governmental Unit.

125. “*Statutory Fees*” means fees payable pursuant to 28 U.S.C. § 1930.

126. “*Strand*” means Strand Advisors, Inc., the Debtor’s general partner.

127. “*Sub-Servicer*” means a third-party selected by the Claimant Trustee to service or sub-service the Reorganized Debtor Assets.

128. “*Sub-Servicer Agreement*” means the agreement that may be entered into providing for the servicing of the Reorganized Debtor Assets by the Sub-Servicer.

129. “*Subordinated Claim*” means any Claim that is subordinated to the Convenience Claims and General Unsecured Claims pursuant to 11 U.S.C. § 510 or order entered by the Bankruptcy Court.

130. “*Subordinated Claimant Trust Interests*” means the Claimant Trust Interests to be distributed to Holders of Allowed Subordinated Claims under the Plan, which such interests shall be subordinated in right and priority to the Claimant Trust Interests distributed to Holders of Allowed General Unsecured Claims as provided in the Claimant Trust Agreement.

131. “*Trust Distribution*” means the transfer of Cash or other property by the Claimant Trustee to the Claimant Trust Beneficiaries.

132. “*Trustees*” means, collectively, the Claimant Trustee and Litigation Trustee.

133. “*UBS*” means, collectively, UBS Securities LLC and UBS AG London Branch.

134. “*Unexpired Lease*” means a lease to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

135. “*Unimpaired*” means, with respect to a Class of Claims or Equity Interests that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

136. “*Voting Deadline*” means the date and time by which all Ballots to accept or reject the Plan must be received in order to be counted under the Order of the Bankruptcy Court approving the Disclosure Statement as containing adequate information pursuant to section 1125(a) of the Bankruptcy Code and authorizing the Debtor to solicit acceptances of the Plan.

137. “*Voting Record Date*” means November 23, 2020.

ARTICLE II.

ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS

A. Administrative Expense Claims

On the later of the Effective Date or the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or, in each such case, as soon as practicable thereafter, each Holder of an Allowed Administrative Expense Claim (other than Professional Fee Claims) will receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Administrative Expense Claim either (i) payment in full in Available Cash for the unpaid portion of such Allowed Administrative Expense Claim; or (ii) such other less favorable treatment as agreed to in writing by the Debtor or the Reorganized

Debtor, as applicable, and such Holder; *provided, however*, that Administrative Expense Claims incurred by the Debtor in the ordinary course of business may be paid in the ordinary course of business in the discretion of the Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. All statutory fees payable under 28 U.S.C. § 1930(a) shall be paid as such fees become due.

If an Administrative Expense Claim (other than a Professional Fee Claim) is not paid by the Debtor in the ordinary course, the Holder of such Administrative Expense Claim must File, on or before the applicable Administrative Expense Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for allowance and payment of such Administrative Expense Claim.

Objections to any Administrative Expense Claim (other than a Professional Fee Claim) must be Filed and served on the Debtor or the Reorganized Debtor, as applicable, and the party asserting such Administrative Expense Claim by the Administrative Expense Claims Objection Deadline.

B. Professional Fee Claims

Professionals or other Entities asserting a Professional Fee Claim for services rendered through the Effective Date must submit fee applications under sections 327, 328, 329, 330, 331, 503(b) or 1103 of the Bankruptcy Code and, upon entry of an order of the Bankruptcy Court granting such fee applications, such Professional Fee Claim shall promptly be paid in Cash in full to the extent provided in such order.

Professionals or other Entities asserting a Professional Fee Claim for services rendered on or prior to the Effective Date must File, on or before the Professional Fee Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated as requiring such notice by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim.

Objections to any Professional Fee Claim must be Filed and served on the Debtor or Reorganized Debtor, as applicable, and the party asserting the Professional Fee Claim by the Professional Fee Claim Objection Deadline. Each Holder of an Allowed Professional Fee Claim will be paid by the Debtor or the Claimant Trust, as applicable, in Cash within ten (10) Business Days of entry of the order approving such Allowed Professional Fee Claim.

On the Effective Date, the Claimant Trustee shall establish the Professional Fee Reserve. The Professional Fee Reserve shall vest in the Claimant Trust and shall be maintained by the Claimant Trustee in accordance with the Plan and Claimant Trust Agreement. The Claimant Trust shall fund the Professional Fee Reserve on the Effective Date in an estimated amount determined by the Debtor in good faith prior to the Confirmation Date and that approximates the total projected amount of unpaid Professional Fee Claims on the Effective Date. Following the payment of all Allowed Professional Fee Claims, any excess funds in the Professional Fee

Reserve shall be released to the Claimant Trust to be used for other purposes consistent with the Plan and the Claimant Trust Agreement.

C. Priority Tax Claims

On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Priority Tax Claim is an Allowed Priority Tax Claim as of the Effective Date or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Priority Tax Claim, at the election of the Debtor: (a) Cash in an amount equal to the amount of such Allowed Priority Tax Claim, (b) payment of such Allowed Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code; or (c) such other less favorable treatment as agreed to in writing by the Debtor and such Holder. Payment of statutory fees due pursuant to 28 U.S.C. § 1930(a)(6) will be made at all appropriate times until the entry of a final decree; *provided, however*, that the Debtor may prepay any or all such Claims at any time, without premium or penalty.

**ARTICLE III.
CLASSIFICATION AND TREATMENT OF
CLASSIFIED CLAIMS AND EQUITY INTERESTS**

A. Summary

All Claims and Equity Interests, except Administrative Expense Claims and Priority Tax Claims, are classified in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, and Priority Tax Claims have not been classified.

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes including, without limitation, confirmation and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and will be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid, released or otherwise settled (in each case, by the Debtor or any other Entity) prior to the Effective Date.

B. Summary of Classification and Treatment of Classified Claims and Equity Interests

Class	Claim	Status	Voting Rights
1	Jefferies Secured Claim	Unimpaired	Deemed to Accept
2	Frontier Secured Claim	Impaired	Entitled to Vote
3	Other Secured Claims	Unimpaired	Deemed to Accept
4	Priority Non-Tax Claim	Unimpaired	Deemed to Accept
5	Retained Employee Claim	Unimpaired	Deemed to Accept
6	PTO Claims	Unimpaired	Deemed to Accept
7	Convenience Claims	Impaired	Entitled to Vote
8	General Unsecured Claims	Impaired	Entitled to Vote
9	Subordinated Claims	Impaired	Entitled to Vote
10	Class B/C Limited Partnership Interests	Impaired	Entitled to Vote
11	Class A Limited Partnership Interests	Impaired	Entitled to Vote

C. Elimination of Vacant Classes

Any Class that, as of the commencement of the Confirmation Hearing, does not have at least one Holder of a Claim or Equity Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class.

D. Impaired/Voting Classes

Claims and Equity Interests in Class 2 and Class 7 through Class 11 are Impaired by the Plan, and only the Holders of Claims or Equity Interests in those Classes are entitled to vote to accept or reject the Plan.

E. Unimpaired/Non-Voting Classes

Claims in Class 1 and Class 3 through Class 6 are Unimpaired by the Plan, and such Holders are deemed to have accepted the Plan and are therefore not entitled to vote on the Plan.

F. Impaired/Non-Voting Classes

There are no Classes under the Plan that will not receive or retain any property and no Classes are deemed to reject the Plan.

G. Cramdown

If any Class of Claims or Equity Interests is deemed to reject this Plan or does not vote to accept this Plan, the Debtor may (i) seek confirmation of this Plan under section 1129(b) of the Bankruptcy Code or (ii) amend or modify this Plan in accordance with the terms hereof and the

Bankruptcy Code. If a controversy arises as to whether any Claims or Equity Interests, or any class of Claims or Equity Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

H. Classification and Treatment of Claims and Equity Interests

1. Class 1 – Jefferies Secured Claim

- *Classification:* Class 1 consists of the Jefferies Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 1 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 1 Claim, at the election of the Debtor: (A) Cash equal to the amount of such Allowed Class 1 Claim; (B) such other less favorable treatment as to which the Debtor and the Holder of such Allowed Class 1 Claim will have agreed upon in writing; or (C) such other treatment rendering such Claim Unimpaired. Each Holder of an Allowed Class 1 Claim will retain the Liens securing its Allowed Class 1 Claim as of the Effective Date until full and final payment of such Allowed Class 1 Claim is made as provided herein.
- *Impairment and Voting:* Class 1 is Unimpaired, and the Holders of Class 1 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 1 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

2. Class 2 – Frontier Secured Claim

- *Classification:* Class 2 consists of the Frontier Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 2 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 2 Claim: (A) Cash in an amount equal to all accrued but unpaid interest on the Frontier Claim through and including the Effective Date and (B) the New Frontier Note. The Holder of an Allowed Class 2 Claim will retain the Liens securing its Allowed Class 2 Claim as of the Effective Date until full and final payment of such Allowed Class 2 Claim is made as provided herein.
- *Impairment and Voting:* Class 2 is Impaired, and the Holders of Class 2 Claims are entitled to vote to accept or reject this Plan.

3. Class 3 – Other Secured Claims

- *Classification:* Class 3 consists of the Other Secured Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 3 Claim is Allowed on the Effective Date or (ii) the date on which such Class 3 Claim becomes an Allowed Class 3 Claim, each Holder of an Allowed Class 3 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 3 Claim, at the option of the Debtor, or following the Effective Date, the Reorganized Debtor or Claimant Trustee, as applicable, (i) Cash equal to such Allowed Other Secured Claim, (ii) the collateral securing its Allowed Other Secured Claim, plus postpetition interest to the extent required under Bankruptcy Code Section 506(b), or (iii) such other treatment rendering such Claim Unimpaired.
- *Impairment and Voting:* Class 3 is Unimpaired, and the Holders of Class 3 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 3 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

4. Class 4 – Priority Non-Tax Claims

- *Classification:* Class 4 consists of the Priority Non-Tax Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 4 Claim is Allowed on the Effective Date or (ii) the date on which such Class 4 Claim becomes an Allowed Class 4 Claim, each Holder of an Allowed Class 4 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 4 Claim Cash equal to the amount of such Allowed Class 4 Claim.
- *Impairment and Voting:* Class 4 is Unimpaired, and the Holders of Class 4 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 4 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

5. Class 5 – Retained Employee Claims

- *Classification:* Class 5 consists of the Retained Employee Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the Effective Date, each Allowed Class 5 Claim will be Reinstated.

- *Impairment and Voting:* Class 5 is Unimpaired, and the Holders of Class 5 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 5 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

6. *Class 6 – PTO Claims*

- *Classification:* Class 6 consists of the PTO Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 6 Claim is Allowed on the Effective Date or (ii) the date on which such Class 6 Claim becomes an Allowed Class 6 Claim, each Holder of an Allowed Class 6 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 6 Claim Cash equal to the amount of such Allowed Class 6 Claim.
- *Impairment and Voting:* Class 6 is Unimpaired, and the Holders of Class 6 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 6 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

7. *Class 7 – Convenience Claims*

- *Classification:* Class 7 consists of the Convenience Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 7 Claim is Allowed on the Effective Date or (ii) the date on which such Class 7 Claim becomes an Allowed Class 7 Claim, each Holder of an Allowed Class 7 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 7 Claim (1) the treatment provided to Allowed Holders of Class 8 General Unsecured Claims if the Holder of such Class 7 Claim makes the GUC Election or (2) an amount in Cash equal to the lesser of (a) 85% of the Allowed amount of such Holder's Class 7 Claim or (b) such Holder's Pro Rata share of the Convenience Claims Cash Pool.
- *Impairment and Voting:* Class 7 is Impaired, and the Holders of Class 7 Claims are entitled to vote to accept or reject this Plan.

8. *Class 8 – General Unsecured Claims*

- *Classification:* Class 8 consists of the General Unsecured Claims.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 8 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Claimant Trust Interests, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing, or (iii) the treatment provided to Allowed Holders of Class 7 Convenience Claims if the Holder of such Class 8 General Unsecured Claim is eligible and makes a valid Convenience Class Election.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any General Unsecured Claim, except with respect to any General Unsecured Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 8 is Impaired, and the Holders of Class 8 Claims are entitled to vote to accept or reject this Plan.

9. *Class 9 – Subordinated Claims*

- *Classification:* Class 9 consists of the Subordinated Claims.

Treatment: On the Effective Date, Holders of Subordinated Claims shall receive either (i) their Pro Rata share of the Subordinated Claimant Trust Interests or, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee may agree upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Subordinated Claim, except with respect to any Subordinated Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 9 is Impaired, and the Holders of Class 9 Claims are entitled to vote to accept or reject this Plan.

10. *Class 10 – Class B/C Limited Partnership Interests*

- *Classification:* Class 10 consists of the Class B/C Limited Partnership Interests.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 10 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class B/C Limited Partnership Interest Claim, except with respect to any Class B/C Limited Partnership Interest Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 10 is Impaired, and the Holders of Class 10 Claims are entitled to vote to accept or reject this Plan.

11. Class 11 – Class A Limited Partnership Interests

- *Classification:* Class 11 consists of the Class A Limited Partnership Interests.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 11 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class A Limited Partnership Interest, except with respect to any Class A Limited Partnership Interest Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 11 is Impaired, and the Holders of Class 11 Claims are entitled to vote to accept or reject this Plan.

I. Special Provision Governing Unimpaired Claims

Except as otherwise provided in the Plan, nothing under the Plan will affect the Debtor's rights in respect of any Unimpaired Claims, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

J. Subordinated Claims

The allowance, classification, and treatment of all Claims under the Plan shall take into account and conform to the contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Under section 510 of the Bankruptcy Code, upon written notice and hearing, the Debtor the Reorganized Debtor, and the Claimant Trustee reserve the right to seek entry of an order by the Bankruptcy Court to re-classify or to subordinate any Claim in accordance with any contractual, legal, or equitable subordination relating thereto, and the treatment afforded any Claim under the Plan that becomes a subordinated Claim at any time shall be modified to reflect such subordination.

ARTICLE IV. MEANS FOR IMPLEMENTATION OF THIS PLAN

A. Summary

As discussed in the Disclosure Statement, the Plan will be implemented through (i) the Claimant Trust, (ii) the Litigation Sub-Trust, and (iii) the Reorganized Debtor.

On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be cancelled, and new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC – a newly-chartered limited liability company wholly-owned by the Claimant Trust. The Claimant Trust, as limited partner, will ratify New GP LLC’s appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor’s limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor’s current Limited Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to this Plan and the Claimant Trust Agreement, and the Litigation Trustee will pursue, if applicable, the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan. The Reorganized Debtor will administer the Reorganized Debtor Assets and, if needed, with the utilization of a Sub-Servicer, which administration will include, among other things, managing the wind down of the Managed Funds.

Although the Reorganized Debtor will manage the wind down of the Managed Funds, it is currently anticipated that neither the Reorganized Debtor nor the Claimant Trust will assume or assume and assign the contracts between the Debtor and certain Related Entities pursuant to which the Debtor provides shared services and sub-advisory services to those Related Entities. The Debtor believes that the continued provision of the services under such contracts will not be

cost effective.

The Reorganized Debtor will distribute all proceeds from the wind down to the Claimant Trust, as its limited partner, and New GP LLC, as its general partner, in each case in accordance with the Reorganized Limited Partnership Agreement. Such proceeds, along with the proceeds of the Claimant Trust Assets, will ultimately be distributed to the Claimant Trust Beneficiaries as set forth in this Plan and the Claimant Trust Agreement.

B. The Claimant Trust²

1. Creation and Governance of the Claimant Trust and Litigation Sub-Trust.

On or prior to the Effective Date, the Debtor and the Claimant Trustee shall execute the Claimant Trust Agreement and shall take all steps necessary to establish the Claimant Trust and the Litigation Sub-Trust in accordance with the Plan in each case for the benefit of the Claimant Trust Beneficiaries. Additionally, on or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax.

The Claimant Trustee shall be the exclusive trustee of the Claimant Trust Assets, excluding the Estate Claims and the Litigation Trustee shall be the exclusive trustee with respect to the Estate Claims in each case for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Claimant Trust Assets. The Claimant Trustee shall also be responsible for resolving all Claims and Equity Interests in Class 8 through Class 11, under the supervision of the Claimant Trust Oversight Committee.

On the Effective Date, the Claimant Trustee and Litigation Trustee shall execute the Litigation Sub-Trust Agreement and shall take all steps necessary to establish the Litigation Sub-Trust. Upon the creation of the Litigation Sub-Trust, the Claimant Trust shall irrevocably transfer and assign to the Litigation Sub-Trust the Estate Claims. The Claimant Trust shall be governed by the Claimant Trust Agreement and administered by the Claimant Trustee. The powers, rights, and responsibilities of the Claimant Trustee shall be specified in the Claimant Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting to the Claimant Trust Oversight Committee as may be set forth in the Claimant Trust Agreement. The Claimant Trust shall hold and distribute the Claimant Trust Assets (including the proceeds from the Estate Claims, if any) in accordance with the provisions of the Plan and the Claimant Trust Agreement; *provided* that the Claimant Trust Oversight Committee may direct the Claimant Trust to reserve

² In the event of a conflict between the terms of this summary and the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, the terms of the Claimant Trust Agreement or the Litigation Sub-Trust Agreement, as applicable, shall control.

Cash from distributions as necessary to fund the Claimant Trust and Litigation Sub-Trust. Other rights and duties of the Claimant Trustee and the Claimant Trust Beneficiaries shall be as set forth in the Claimant Trust Agreement. After the Effective Date, neither the Debtor nor the Reorganized Debtor shall have any interest in the Claimant Trust Assets.

The Litigation Sub-Trust shall be governed by the Litigation Sub-Trust Agreement and administered by the Litigation Trustee. The powers, rights, and responsibilities of the Litigation Trustee shall be specified in the Litigation Sub-Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting as may be set forth in the Litigation Sub-Trust Agreement. The Litigation Sub-Trust shall investigate, prosecute, settle, or otherwise resolve the Estate Claims in accordance with the provisions of the Plan and the Litigation Sub-Trust Agreement and shall distribute the proceeds therefrom to the Claimant Trust for distribution. Other rights and duties of the Litigation Trustee shall be as set forth in the Litigation Sub-Trust Agreement.

2. Claimant Trust Oversight Committee

The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will be overseen by the Claimant Trust Oversight Committee, subject to the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as applicable.

The Claimant Trust Oversight Committee will initially consist of five members. Four of the five members will be representatives of the members of the Committee: (i) the Redeemer Committee of Highland Crusader Fund, (ii) UBS, (iii) Acis, and (iv) Meta-e Discovery. The fifth member will be an independent, natural Person chosen by the Committee and reasonably acceptable to the Debtor. The members of the Claimant Trust Oversight Committee may be replaced as set forth in the Claimant Trust Agreement. The identity of the members of the Claimant Trust Oversight Committee will be disclosed in the Plan Supplement.

As set forth in the Claimant Trust Agreement, in no event will any member of the Claimant Trust Oversight Committee with a Claim against the Estate be entitled to vote, opine, or otherwise be involved in any matters related to such member's Claim.

The independent member(s) of the Claimant Trust Oversight Committee may be entitled to compensation for their services as set forth in the Claimant Trust Agreement. Any member of the Claimant Trust Oversight Committee may be removed, and successor chosen, in the manner set forth in the Claimant Trust Agreement.

3. Purpose of the Claimant Trust.

The Claimant Trust shall be established for the purpose of (i) managing and monetizing the Claimant Trust Assets, subject to the terms of the Claimant Trust Agreement and the oversight of the Claimant Trust Oversight Committee, (ii) serving as the limited partner of, and holding the limited partnership interests in, the Reorganized Debtor, (iii) serving as the sole member and manager of New GP LLC, the Reorganized Debtor's general partner, (iv) in its capacity as the sole member and manager of New GP LLC, overseeing the management and

monetization of the Reorganized Debtor Assets pursuant to the terms of the Reorganized Limited Partnership Agreement; and (v) administering the Disputed Claims Reserve and serving as Distribution Agent with respect to Disputed Claims in Class 7 or Class 8.

In its management of the Claimant Trust Assets, the Claimant Trust will also reconcile and object to the General Unsecured Claims, Subordinated Claims, Class B/C Limited Partnership Interests, and Class A Limited Partnership Interests, as provided for in this Plan and the Claimant Trust Agreement, and make Trust Distributions to the Claimant Trust Beneficiaries in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

The purpose of the Reorganized Debtor is discussed at greater length in ARTICLE IV.C.

4. Purpose of the Litigation Sub-Trust.

The Litigation Sub-Trust shall be established for the purpose of investigating, prosecuting, settling, or otherwise resolving the Estate Claims. Any proceeds therefrom shall be distributed by the Litigation Sub-Trust to the Claimant Trust for distribution to the Claimant Trust Beneficiaries pursuant to the terms of the Claimant Trust Agreement.

5. Claimant Trust Agreement and Litigation Sub-Trust Agreement.

The Claimant Trust Agreement generally will provide for, among other things:

- (i) the payment of the Claimant Trust Expenses;
- (ii) the payment of other reasonable expenses of the Claimant Trust;
- (iii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation;
- (iv) the investment of Cash by the Claimant Trustee within certain limitations, including those specified in the Plan;
- (v) the orderly monetization of the Claimant Trust Assets;
- (vi) litigation of any Causes of Action, which may include the prosecution, settlement, abandonment, or dismissal of any such Causes of Action, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (vii) the resolution of Claims and Equity Interests in Class 8 through Class 11, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (viii) the administration of the Disputed Claims Reserve and distributions to be made therefrom; and
- (ix) the management of the Reorganized Debtor, including the utilization of a Sub-Servicer, with the Claimant Trust serving as the managing member of New GP LLC.

Except as otherwise ordered by the Bankruptcy Court, the Claimant Trust Expenses shall be paid from the Claimant Trust Assets in accordance with the Plan and Claimant Trust Agreement. The Claimant Trustee may establish a reserve for the payment of Claimant Trust Expense (including, without limitation, any reserve for potential indemnification claims as authorized and provided under the Claimant Trust Agreement), and shall periodically replenish such reserve, as necessary.

In furtherance of, and consistent with the purpose of, the Claimant Trust and the Plan, the Trustees, for the benefit of the Claimant Trust, shall, subject to reporting and oversight by the Claimant Trust Oversight Committee as set forth in the Claimant Trust Agreement: (i) hold the Claimant Trust Assets for the benefit of the Claimant Trust Beneficiaries, (ii) make Distributions to the Claimant Trust Beneficiaries as provided herein and in the Claimant Trust Agreement, and (iii) have the sole power and authority to prosecute and resolve any Causes of Action and objections to Claims and Equity Interests (other than those assigned to the Litigation Sub-Trust), without approval of the Bankruptcy Court. Except as otherwise provided in the Claimant Trust Agreement, the Claimant Trustee shall be responsible for all decisions and duties with respect to the Claimant Trust and the Claimant Trust Assets; *provided, however*, that the prosecution and resolution of any Estate Claims included in the Claimant Trust Assets shall be the responsibility of the Litigation Trustee. The Litigation Sub-Trust Agreement generally will provide for, among other things:

- (i) the payment of other reasonable expenses of the Litigation Sub-Trust;
- (ii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation; and
- (iii) the investigation and prosecution of Estate Claims, which may include the prosecution, settlement, abandonment, or dismissal of any such Estate Claims, subject to reporting and oversight as set forth in the Litigation Sub-Trust Agreement.

The Trustees, on behalf of the Claimant Trust and Litigation Sub-Trust, as applicable, may each employ, without further order of the Bankruptcy Court, employees and other professionals (including those previously retained by the Debtor and the Committee) to assist in carrying out the Trustees' duties hereunder and may compensate and reimburse the reasonable expenses of these professionals without further Order of the Bankruptcy Court from the Claimant Trust Assets in accordance with the Plan and the Claimant Trust Agreement.

The Claimant Trust Agreement and Litigation Sub-Trust Agreement may include reasonable and customary provisions that allow for indemnification by the Claimant Trust in favor of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee. Any such indemnification shall be the sole responsibility of the Claimant Trust and payable solely from the Claimant Trust Assets.

6. Compensation and Duties of Trustees.

The salient terms of each Trustee's employment, including such Trustee's duties and compensation shall be set forth in the Claimant Trust Agreement and the Litigation Sub-Trust

Agreement, as appropriate. The Trustees shall each be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar types of bankruptcy cases.

7. Cooperation of Debtor and Reorganized Debtor.

To effectively investigate, prosecute, compromise and/or settle the Claims and/or Causes of Action that constitute Claimant Trust Assets (including Estate Claims), the Claimant Trustee, Litigation Trustee, and each of their professionals may require reasonable access to the Debtor's and Reorganized Debtor's documents, information, and work product relating to the Claimant Trust Assets. Accordingly, the Debtor and the Reorganized Debtor, as applicable, shall reasonably cooperate with the Claimant Trustee and Litigation Trustee, as applicable, in their prosecution of Causes of Action and in providing the Claimant Trustee and Litigation Trustee with copies of documents and information in the Debtor's possession, custody, or control on the Effective Date that either Trustee indicates relates to the Estate Claims or other Causes of Action.

The Debtor and Reorganized Debtor shall preserve all records, documents or work product (including all electronic records, documents, or work product) related to the Claims and Causes of Action, including Estate Claims, until the earlier of (a) the dissolution of the Reorganized Debtor or (b) termination of the Claimant Trust and Litigation Sub-Trust.

8. United States Federal Income Tax Treatment of the Claimant Trust.

Unless the IRS requires otherwise, for all United States federal income tax purposes, the parties shall treat the transfer of the Claimant Trust Assets to the Claimant Trust as: (a) a transfer of the Claimant Trust Assets (other than the amounts set aside in the Disputed Claims Reserve, if the Claimant Trustee makes the election described in Section 7 below) directly to the applicable Claimant Trust Beneficiaries followed by (b) the transfer by the such Claimant Trust Beneficiaries to the Claimant Trust of such Claimant Trust Assets in exchange for the Claimant Trust Interests. Accordingly, the applicable Claimant Trust Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Claimant Trust Assets. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

9. Tax Reporting.

(a) The Claimant Trustee shall file tax returns for the Claimant Trust treating the Claimant Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a). The Claimant Trustee may file an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claims Reserve as a separate taxable entity.

(b) The Claimant Trustee shall be responsible for payment, out of the Claimant Trust Assets, of any taxes imposed on the Claimant Trust or its assets.

(c) The Claimant Trustee shall determine the fair market value of the Claimant Trust Assets as of the Effective Date and notify the applicable Claimant Trust Beneficiaries of such valuation, and such valuation shall be used consistently for all federal income tax purposes.

(d) The Claimant Trustee shall distribute such tax information to the applicable Claimant Trust Beneficiaries as the Claimant Trustee determines is required by applicable law.

10. Claimant Trust Assets.

The Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Causes of Action included in the Claimant Trust Assets (except for the Estate Claims) without any further order of the Bankruptcy Court, and the Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to sell, liquidate, or otherwise monetize all Claimant Trust Assets, except as otherwise provided in this Plan or in the Claimant Trust Agreement, without any further order of the Bankruptcy Court. Notwithstanding anything herein to the contrary, the Litigation Trustee shall have the exclusive right to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Estate Claims included in the Claimant Trust Assets without any further order of the Bankruptcy Court.

From and after the Effective Date, the Trustees, in accordance with section 1123(b)(3) and (4) of the Bankruptcy Code, and on behalf of the Claimant Trust, shall each serve as a representative of the Estate with respect to any and all Claimant Trust Assets, including the Causes of Action and Estate Claims, as appropriate, and shall retain and possess the right to (a) commence, pursue, settle, compromise, or abandon, as appropriate, any and all Causes of Action in any court or other tribunal and (b) sell, liquidate, or otherwise monetize all Claimant Trust Assets.

11. Claimant Trust Expenses.

From and after the Effective Date, the Claimant Trust shall, in the ordinary course of business and without the necessity of any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the Claimant Trust, the Litigation Sub-Trust, and any professionals retained by such parties and entities from the Claimant Trust Assets, except as otherwise provided in the Claimant Trust Agreement.

12. Trust Distributions to Claimant Trust Beneficiaries.

The Claimant Trustee, in its discretion, may make Trust Distributions to the Claimant Trust Beneficiaries at any time and/or use the Claimant Trust Assets or proceeds thereof, *provided* that such Trust Distributions or use is otherwise permitted under the terms of the Plan, the Claimant Trust Agreement, and applicable law.

13. Cash Investments.

With the consent of the Claimant Trust Oversight Committee, the Claimant Trustee may invest Cash (including any earnings thereon or proceeds therefrom) in a manner consistent with the terms of the Claimant Trust Agreement; *provided, however*, that such investments are

investments permitted to be made by a “liquidating trust” within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities.

14. Dissolution of the Claimant Trust and Litigation Sub-Trust.

The Trustees and the Claimant Trust and Litigation Sub-Trust shall be discharged or dissolved, as the case may be, at such time as: (a) the Litigation Trustee determines that the pursuit of Estate Claims is not likely to yield sufficient additional proceeds to justify further pursuit of such Estate Claims, (b) the Claimant Trustee determines that the pursuit of Causes of Action (other than Estate Claims) is not likely to yield sufficient additional proceeds to justify further pursuit of such Causes of Action, (c) the Claimant Trustee determines that the pursuit of sales of other Claimant Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit of such sales of Claimant Trust Assets, (d) all objections to Disputed Claims and Equity Interests are fully resolved, (e) the Reorganized Debtor is dissolved, and (f) all Distributions required to be made by the Claimant Trustee to the Claimant Trust Beneficiaries under the Plan have been made, but in no event shall the Claimant Trust be dissolved later than three years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the recovery on, and liquidation of, the Claimant Trust Assets; *provided, however*, that each extension must be approved, upon a finding that the extension is necessary to facilitate or complete the recovery on, and liquidation of the Claimant Trust Assets, by the Bankruptcy Court within 6 months of the beginning of the extended term and no extension, together with any prior extensions, shall exceed three years without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes.

Upon dissolution of the Claimant Trust, and pursuant to the Claimant Trust Agreement, any remaining Claimant Trust Assets that exceed the amounts required to be paid under the Plan will be transferred (in the sole discretion of the Claimant Trustee) in Cash or in-kind to the Holders of the Claimant Trust Interests as provided in the Claimant Trust Agreement.

C. The Reorganized Debtor

1. Corporate Existence

The Debtor will continue to exist after the Effective Date, with all of the powers of partnerships pursuant to the law of the State of Delaware and as set forth in the Reorganized Limited Partnership Agreement.

2. Cancellation of Equity Interests and Release

On the Effective Date, (i) all prepetition Equity Interests, including the Class A Limited Partnership Interests and the Class B/C Limited Partnership Interests, in the Debtor shall be canceled, and (ii) all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, the Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement.

3. Issuance of New Partnership Interests

On the Effective Date, the Debtor or the Reorganized Debtor, as applicable, will issue new Class A Limited Partnership Interests to (i) the Claimant Trust, as limited partner, and (ii) New GP LLC, as general partner, and will admit (a) the Claimant Trust as the limited partner of the Reorganized Debtor, and (b) New GP LLC as the general partner of the Reorganized Debtor. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor. Also, on the Effective Date, the Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement and receive partnership interests in the Reorganized Debtor consistent with the terms of the Reorganized Limited Partnership Agreement.

The Reorganized Limited Partnership Agreement does not provide for, and specifically disclaims, the indemnification obligations under the Limited Partnership Agreement, including any such indemnification obligations that accrued or arose or could have been brought prior to the Effective Date. Any indemnification Claims under the Limited Partnership Agreement that accrued, arose, or could have been filed prior to the Effective Date will be resolved through the Claims resolution process provided that a Claim is properly filed in accordance with the Bankruptcy Code, the Plan, or the Bar Date Order. Each of the Debtor, the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust reserve all rights with respect to any such indemnification Claims.

4. Management of the Reorganized Debtor

Subject to and consistent with the terms of the Reorganized Limited Partnership Agreement, the Reorganized Debtor shall be managed by its general partner, New GP LLC. The initial officers and employees of the Reorganized Debtor shall be selected by the Claimant Trustee. The Reorganized Debtor may, in its discretion, also utilize a Sub-Servicer in addition to or in lieu of the retention of officers and employees.

As set forth in the Reorganized Limited Partnership Agreement, New GP LLC will receive a fee for managing the Reorganized Debtor. Although New GP LLC will be a limited liability company, it will elect to be treated as a C-Corporation for tax purposes. Therefore, New GP LLC (and any taxable income attributable to it) will be subject to corporate income taxation on a standalone basis, which may reduce the return to Claimants.

5. *Vesting of Assets in the Reorganized Debtor*

Except as otherwise provided in this Plan or the Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.

The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

6. *Purpose of the Reorganized Debtor*

Except as may be otherwise provided in this Plan or the Confirmation Order, the Reorganized Debtor will continue to manage the Reorganized Debtor Assets (which shall include, for the avoidance of doubt, serving as the investment manager of the Managed Funds) and may use, acquire or dispose of the Reorganized Debtor Assets and compromise or settle any Claims with respect to the Reorganized Debtor Assets without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules. The Reorganized Debtor shall oversee the resolution of Claims in Class 1 through Class 7.

Without limiting the foregoing, the Reorganized Debtor will pay the charges that it incurs after the Effective Date for Professionals' fees, disbursements, expenses or related support services (including reasonable fees relating to the preparation of Professional fee applications) in the ordinary course of business and without application or notice to, or order of, the Bankruptcy Court.

7. *Distribution of Proceeds from the Reorganized Debtor Assets; Transfer of Reorganized Debtor Assets*

Any proceeds received by the Reorganized Debtor will be distributed to the Claimant Trust, as limited partner, and New GP LLC, as general partner, in the manner set forth in the Reorganized Limited Partnership Agreement. As set forth in the Reorganized Limited Partnership Agreement, the Reorganized Debtor may, from time to time distribute Reorganized Debtor Assets to the Claimant Trust either in Cash or in-kind, including to institute the wind-down and dissolution of the Reorganized Debtor. Any assets distributed to the Claimant Trust will be (i) deemed transferred in all respects as forth in ARTICLE IV.B.1, (ii) deemed Claimant Trust Assets, and (iii) administered as Claimant Trust Assets.

D. Company Action

Each of the Debtor, the Reorganized Debtor, and the Trustees, as applicable, may take any and all actions to execute, deliver, File or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of this Plan, the Claimant Trust Agreement, the Reorganized Limited Partnership Agreement, or the New GP LLC Documents, as applicable, in

the name of and on behalf of the Debtor, the Reorganized Debtor, or the Trustees, as applicable, and in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, officers, or directors of the Debtor or the Reorganized Debtor, as applicable, or by any other Person.

Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to this Plan that would otherwise require approval of the stockholders, partners, directors, managers, or members of the Debtor, any Related Entity, or any Affiliate thereof (as of prior to the Effective Date) will be deemed to have been so approved and will be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the stockholders, partners, directors, managers or members of such Persons, or the need for any approvals, authorizations, actions or consents of any Person.

All matters provided for in this Plan involving the legal or corporate structure of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, and any legal or corporate action required by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, in connection with this Plan, will be deemed to have occurred and will be in full force and effect in all respects, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, partners, directors, managers, or members of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, or by any other Person. On the Effective Date, the appropriate officers of the Debtor and the Reorganized Debtor, as applicable, as well as the Trustees, are authorized to issue, execute, deliver, and consummate the transactions contemplated by, the contracts, agreements, documents, guarantees, pledges, consents, securities, certificates, resolutions and instruments contemplated by or described in this Plan in the name of and on behalf of the Debtor and the Reorganized Debtor, as well as the Trustees, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. The appropriate officer of the Debtor, the Reorganized Debtor, as well as the Trustees, will be authorized to certify or attest to any of the foregoing actions.

E. Release of Liens, Claims and Equity Interests

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, from and after the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all Liens, Claims, Equity Interests, mortgages, deeds of trust, or other security interests against the property of the Estate will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Entity. Any Entity holding such Liens or Equity Interests extinguished pursuant to the prior sentence will, pursuant to section 1142 of the Bankruptcy Code, promptly execute and deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable. For the avoidance of

doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

F. Cancellation of Notes, Certificates and Instruments

Except for the purpose of evidencing a right to a distribution under this Plan and except as otherwise set forth in this Plan, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to this Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

G. Cancellation of Existing Instruments Governing Security Interests

Upon payment or other satisfaction of an Allowed Class 1 or Allowed Class 2 Claim, or promptly thereafter, the Holder of such Allowed Class 1 or Allowed Class 2 Claim shall deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, any collateral or other property of the Debtor held by such Holder, together with any termination statements, instruments of satisfaction, or releases of all security interests with respect to its Allowed Class 1 or Allowed Class 2 Claim that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory Liens, or *lis pendens*, or similar interests or documents.

H. Control Provisions

To the extent that there is any inconsistency between this Plan as it relates to the Claimant Trust, the Claimant Trust Agreement, the Reorganized Debtor, or the Reorganized Limited Partnership Agreement, this Plan shall control.

I. Treatment of Vacant Classes

Any Claim or Equity Interest in a Class considered vacant under ARTICLE III.C of this Plan shall receive no Plan Distributions.

J. Plan Documents

The documents, if any, to be Filed as part of the Plan Documents, including any documents filed with the Plan Supplement, and any amendments, restatements, supplements, or other modifications to such documents, and any consents, waivers, or other deviations under or from any such documents, shall be incorporated herein by this reference (including to the applicable definitions in ARTICLE I hereof) and fully enforceable as if stated in full herein.

The Debtor and the Committee are currently working to finalize the forms of certain of the Plan Documents to be filed with the Plan Supplement. To the extent that the Debtor and the Committee cannot agree as to the form and content of such Plan Documents, they intend to submit the issue to non-binding mediation pursuant to the *Order Directing Mediation* entered on August 3, 2020 [D.I. 912].

K. Highland Capital Management, L.P. Retirement Plan and Trust

The Highland Capital Management, L.P. Retirement Plan And Trust (“Pension Plan”) is a single-employer defined benefit pension plan covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). 29 U.S.C. §§ 1301-1461. The Debtor is the contributing sponsor and, as such, the PBGC asserts that the Debtor is liable along with any members of the contributing sponsor’s controlled-group within the meaning of 29 U.S.C. §§ 1301(a)(13), (14) with respect to the Pension Plan.

Upon the Effective Date, the Reorganized Debtor shall be deemed to have assumed the Pension Plan and shall comply with all applicable statutory provisions of ERISA and the Internal Revenue Code (the “IRC”), including, but not limited to, satisfying the minimum funding standards pursuant to 26 U.S.C. §§ 412, 430, and 29 U.S.C. §§ 1082, 1083; paying the PBGC premiums in accordance with 29 U.S.C. §§ 1306 and 1307; and administering the Pension Plan in accordance with its terms and the provisions of ERISA and the IRC. In the event that the Pension Plan terminates after the Plan of Reorganization Effective Date, the PBGC asserts that the Reorganized Debtor and each of its controlled group members will be responsible for the liabilities imposed by Title IV of ERISA.

Notwithstanding any provision of the Plan, the Confirmation Order, or the Bankruptcy Code (including section 1141 thereof) to the contrary, neither the Plan, the Confirmation Order, or the Bankruptcy Code shall be construed as discharging, releasing, exculpating or relieving the Debtor, the Reorganized Debtor, or any person or entity in any capacity, from any liability or responsibility, if any, with respect to the Pension Plan under any law, governmental policy, or regulatory provision. PBGC and the Pension Plan shall not be enjoined or precluded from enforcing such liability or responsibility against any person or entity as a result of any of the provisions of the Plan, the Confirmation Order, or the Bankruptcy Code. The Debtor reserves the right to contest any such liability or responsibility.

ARTICLE V.

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Assumption, Assignment, or Rejection of Executory Contracts and Unexpired Leases

Unless an Executory Contract or Unexpired Lease: (i) was previously assumed or rejected by the Debtor pursuant to this Plan on or prior to the Confirmation Date; (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto; (iii) is the subject of a motion to assume filed by the Debtor on or before the Confirmation Date; (iv) contains a change of control or similar provision that would be triggered by the Chapter 11 Case (unless such provision has been irrevocably waived); or (v) is specifically designated as a

contract or lease to be assumed in the Plan or the Plan Supplement, on the Confirmation Date, each Executory Contract and Unexpired Lease shall be deemed rejected pursuant to section 365 of the Bankruptcy Code, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, unless such Executory Contract or Unexpired Lease is listed in the Plan Supplement.

At any time on or prior to the Confirmation Date, the Debtor may (i) amend the Plan Supplement in order to add or remove a contract or lease from the list of contracts to be assumed or (ii) assign (subject to applicable law) any Executory Contract or Unexpired Lease, as determined by the Debtor in consultation with the Committee, or the Reorganized Debtor, as applicable.

The Confirmation Order will constitute an order of the Bankruptcy Court approving the above-described assumptions, rejections, and assumptions and assignments. Except as otherwise provided herein or agreed to by the Debtor and the applicable counterparty, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto. Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith. To the extent applicable, no change of control (or similar provision) will be deemed to occur under any such Executory Contract or Unexpired Lease.

If certain, but not all, of a contract counterparty's Executory Contracts and/or Unexpired Leases are rejected pursuant to the Plan, the Confirmation Order shall be a determination that such counterparty's Executory Contracts and/or Unexpired Leases that are being assumed pursuant to the Plan are severable agreements that are not integrated with those Executory Contracts and/or Unexpired Leases that are being rejected pursuant to the Plan. Parties seeking to contest this finding with respect to their Executory Contracts and/or Unexpired Leases must file a timely objection to the Plan on the grounds that their agreements are integrated and not severable, and any such dispute shall be resolved by the Bankruptcy Court at the Confirmation Hearing (to the extent not resolved by the parties prior to the Confirmation Hearing).

Notwithstanding anything herein to the contrary, the Debtor shall assume or reject that certain real property lease with Crescent TC Investors L.P. ("Landlord") for the Debtor's headquarters located at 200/300 Crescent Ct., Suite #700, Dallas, Texas 75201 (the "Lease") in accordance with the notice to Landlord, procedures and timing required by 11 U.S.C. §365(d)(4), as modified by that certain *Agreed Order Granting Motion to Extend Time to Assume or Reject Unexpired Nonresidential Real Property Lease* [Docket No. 1122].

B. Claims Based on Rejection of Executory Contracts or Unexpired Leases

Any Executory Contract or Unexpired Lease not assumed or rejected on or before the Confirmation Date shall be deemed rejected, pursuant to the Confirmation Order. Any Person asserting a Rejection Claim shall File a proof of claim within thirty days of the Effective Date. Any Rejection Claims that are not timely Filed pursuant to this Plan shall be forever disallowed

and barred. If one or more Rejection Claims are timely Filed, the Claimant Trustee may File an objection to any Rejection Claim.

Rejection Claims shall be classified as General Unsecured Claims and shall be treated in accordance with ARTICLE III of this Plan.

C. Cure of Defaults for Assumed or Assigned Executory Contracts and Unexpired Leases

Any monetary amounts by which any Executory Contract or Unexpired Lease to be assumed or assigned hereunder is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtor upon assumption or assignment thereof, by payment of the default amount in Cash as and when due in the ordinary course or on such other terms as the parties to such Executory Contracts may otherwise agree. The Debtor may serve a notice on the Committee and parties to Executory Contracts or Unexpired Leases to be assumed or assigned reflecting the Debtor's or Reorganized Debtor's intention to assume or assign the Executory Contract or Unexpired Lease in connection with this Plan and setting forth the proposed cure amount (if any).

If a dispute regarding (1) the amount of any payments to cure a default, (2) the ability of the Debtor, the Reorganized Debtor, or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed or assigned or (3) any other matter pertaining to assumption or assignment, the cure payments required by section 365(b)(1) of the Bankruptcy Code will be made following the entry of a Final Order or orders resolving the dispute and approving the assumption or assignment.

Assumption or assignment of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise and full payment of any applicable cure amounts pursuant to this ARTICLE V.C shall result in the full release and satisfaction of any cure amounts, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assigned Executory Contract or Unexpired Lease at any time prior to the effective date of assumption or assignment. Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed or assigned in the Chapter 11 Case, including pursuant to the Confirmation Order, and for which any cure amounts have been fully paid pursuant to this ARTICLE V.C, shall be deemed disallowed and expunged as of the Confirmation Date without the need for any objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court.

**ARTICLE VI.
PROVISIONS GOVERNING DISTRIBUTIONS**

A. Dates of Distributions

Except as otherwise provided in this Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim or Equity Interest on the Effective Date, on the date that such Claim or Equity Interest becomes an Allowed Claim or Equity

Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or Equity Interest against the Debtor shall receive the full amount of the distributions that this Plan provides for Allowed Claims or Allowed Equity Interests in the applicable Class and in the manner provided herein. If any payment or act under this Plan is required to be made or performed on a date that is not on a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent there are Disputed Claims or Equity Interests, distributions on account of any such Disputed Claims or Equity Interests shall be made pursuant to the provisions provided in this Plan. Except as otherwise provided in this Plan, Holders of Claims and Equity Interests shall not be entitled to interest, dividends or accruals on the distributions provided for therein, regardless of whether distributions are delivered on or at any time after the Effective Date.

Upon the Effective Date, all Claims and Equity Interests against the Debtor shall be deemed fixed and adjusted pursuant to this Plan and none of the Debtor, the Reorganized Debtor, or the Claimant Trust will have liability on account of any Claims or Equity Interests except as set forth in this Plan and in the Confirmation Order. All payments and all distributions made by the Distribution Agent under this Plan shall be in full and final satisfaction, settlement and release of all Claims and Equity Interests against the Debtor and the Reorganized Debtor.

At the close of business on the Distribution Record Date, the transfer ledgers for the Claims against the Debtor and the Equity Interests in the Debtor shall be closed, and there shall be no further changes in the record holders of such Claims and Equity Interests. The Debtor, the Reorganized Debtor, the Trustees, and the Distribution Agent, and each of their respective agents, successors, and assigns shall have no obligation to recognize the transfer of any Claims against the Debtor or Equity Interests in the Debtor occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date irrespective of the number of distributions to be made under this Plan to such Persons or the date of such distributions.

B. Distribution Agent

Except as provided herein, all distributions under this Plan shall be made by the Claimant Trustee, as Distribution Agent, or by such other Entity designated by the Claimant Trustee, as a Distribution Agent on the Effective Date or thereafter. The Reorganized Debtor will be the Distribution Agent with respect to Claims in Class 1 through Class 7.

The Claimant Trustee, or such other Entity designated by the Claimant Trustee to be the Distribution Agent, shall not be required to give any bond or surety or other security for the performance of such Distribution Agent's duties unless otherwise ordered by the Bankruptcy Court.

The Distribution Agent shall be empowered to (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under this Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the

Distribution Agent by order of the Bankruptcy Court, pursuant to this Plan, or as deemed by the Distribution Agent to be necessary and proper to implement the provisions hereof.

The Distribution Agent shall not have any obligation to make a particular distribution to a specific Holder of an Allowed Claim if such Holder is also the Holder of a Disputed Claim.

C. Cash Distributions

Distributions of Cash may be made by wire transfer from a domestic bank, except that Cash payments made to foreign creditors may be made in such funds and by such means as the Distribution Agent determines are necessary or customary in a particular foreign jurisdiction.

D. Disputed Claims Reserve

On or prior to the Initial Distribution Date, the Claimant Trustee shall establish, fund and maintain the Disputed Claims Reserve(s) in the appropriate Disputed Claims Reserve Amounts on account of any Disputed Claims.

E. Distributions from the Disputed Claims Reserve

The Disputed Claims Reserve shall at all times hold Cash in an amount no less than the Disputed Claims Reserve Amount. To the extent a Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, within 30 days of the date on which such Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, the Claimant Trustee shall distribute from the Disputed Claims Reserve to the Holder thereof any prior distributions, in Cash, that would have been made to such Allowed Claim if it had been Allowed as of the Effective Date. For the avoidance of doubt, each Holder of a Disputed Claim that subsequently becomes an Allowed Claim will also receive its Pro Rata share of the Claimant Trust Interests. If, upon the resolution of all Disputed Claims any Cash remains in the Disputed Claims Reserve, such Cash shall be transferred to the Claimant Trust and be deemed a Claimant Trust Asset.

F. Rounding of Payments

Whenever this Plan would otherwise call for, with respect to a particular Person, payment of a fraction of a dollar, the actual payment or distribution shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. To the extent that Cash to be distributed under this Plan remains undistributed as a result of the aforementioned rounding, such Cash or stock shall be treated as “Unclaimed Property” under this Plan.

G. De Minimis Distribution

Except as to any Allowed Claim that is Unimpaired under this Plan, none of the Debtor, the Reorganized Debtor, or the Distribution Agent shall have any obligation to make any Plan Distributions with a value of less than \$100, unless a written request therefor is received by the Distribution Agent from the relevant recipient at the addresses set forth in ARTICLE VI.J hereof within 120 days after the later of the (i) Effective Date and (ii) the date such Claim becomes an Allowed Claim. *De minimis* distributions for which no such request is timely received shall

revert to the Claimant Trust. Upon such reversion, the relevant Allowed Claim (and any Claim on account of missed distributions) shall be automatically deemed satisfied, discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

H. Distributions on Account of Allowed Claims

Except as otherwise agreed by the Holder of a particular Claim or as provided in this Plan, all distributions shall be made pursuant to the terms of this Plan and the Confirmation Order. Except as otherwise provided in this Plan, distributions to any Holder of an Allowed Claim shall, to the extent applicable, be allocated first to the principal amount of any such Allowed Claim, as determined for U.S. federal income tax purposes and then, to the extent the consideration exceeds such amount, to the remainder of such Claim comprising accrued but unpaid interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim).

I. General Distribution Procedures

The Distribution Agent shall make all distributions of Cash or other property required under this Plan, unless this Plan specifically provides otherwise. All Cash and other property held by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, for ultimate distribution under this Plan shall not be subject to any claim by any Person.

J. Address for Delivery of Distributions

Distributions to Holders of Allowed Claims, to the extent provided for under this Plan, shall be made (1) at the addresses set forth in any written notices of address change delivered to the Debtor and the Distribution Agent; (2) at the address set forth on any Proofs of Claim Filed by such Holders (to the extent such Proofs of Claim are Filed in the Chapter 11 Case), (2), or (3) at the addresses in the Debtor's books and records.

If there is any conflict or discrepancy between the addresses set forth in (1) through (3) in the foregoing sentence, then (i) the address in Section (2) shall control; (ii) if (2) does not apply, the address in (1) shall control, and (iii) if (1) does not apply, the address in (3) shall control.

K. Undeliverable Distributions and Unclaimed Property

If the distribution to the Holder of any Allowed Claim is returned to the Reorganized Debtor or the Claimant Trust as undeliverable, no further distribution shall be made to such Holder, and Distribution Agent shall not have any obligation to make any further distribution to the Holder, unless and until the Distribution Agent is notified in writing of such Holder's then current address.

Any Entity that fails to claim any Cash within six months from the date upon which a distribution is first made to such Entity shall forfeit all rights to any distribution under this Plan and such Cash shall thereafter be deemed an Claimant Trust Asset in all respects and for all purposes. Entities that fail to claim Cash shall forfeit their rights thereto and shall have no claim whatsoever against the Debtor's Estate, the Reorganized Debtor, the Claimant Trust, or against any Holder of an Allowed Claim to whom distributions are made by the Distribution Agent.

L. Withholding Taxes

In connection with this Plan, to the extent applicable, the Distribution Agent shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions made pursuant to this Plan shall be subject to such withholding and reporting requirements. The Distribution Agent shall be entitled to deduct any U.S. federal, state or local withholding taxes from any Cash payments made with respect to Allowed Claims, as appropriate. As a condition to receiving any distribution under this Plan, the Distribution Agent may require that the Holder of an Allowed Claim entitled to receive a distribution pursuant to this Plan provide such Holder's taxpayer identification number and such other information and certification as may be deemed necessary for the Distribution Agent to comply with applicable tax reporting and withholding laws. If a Holder fails to comply with such a request within one year, such distribution shall be deemed an unclaimed distribution. Any amounts withheld pursuant hereto shall be deemed to have been distributed to and received by the applicable recipient for all purposes of this Plan.

M. Setoffs

The Distribution Agent may, to the extent permitted under applicable law, set off against any Allowed Claim and any distributions to be made pursuant to this Plan on account of such Allowed Claim, the claims, rights and causes of action of any nature that the Debtor, the Reorganized Debtor, or the Distribution Agent may hold against the Holder of such Allowed Claim that are not otherwise waived, released or compromised in accordance with this Plan; *provided, however*, that neither such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor, the Reorganized Debtor, or the Claimant Trustee of any such claims, rights and causes of action that the Debtor, the Reorganized Debtor, or Claimant Trustee possesses against such Holder. Any Holder of an Allowed Claim subject to such setoff reserves the right to challenge any such setoff in the Bankruptcy Court or any other court with jurisdiction with respect to such challenge.

N. Surrender of Cancelled Instruments or Securities

As a condition precedent to receiving any distribution pursuant to this Plan on account of an Allowed Claim evidenced by negotiable instruments, securities, or notes canceled pursuant to ARTICLE IV of this Plan, the Holder of such Claim will tender the applicable negotiable instruments, securities, or notes evidencing such Claim (or a sworn affidavit identifying the negotiable instruments, securities, or notes formerly held by such Holder and certifying that they have been lost), to the Distribution Agent unless waived in writing by the Distribution Agent.

O. Lost, Stolen, Mutilated or Destroyed Securities

In addition to any requirements under any applicable agreement and applicable law, any Holder of a Claim or Equity Interest evidenced by a security or note that has been lost, stolen, mutilated, or destroyed will, in lieu of surrendering such security or note to the extent required by this Plan, deliver to the Distribution Agent: (i) evidence reasonably satisfactory to the Distribution Agent of such loss, theft, mutilation, or destruction; and (ii) such security or indemnity as may be required by the Distribution Agent to hold such party harmless from any

damages, liabilities, or costs incurred in treating such individual as a Holder of an Allowed Claim or Equity Interest. Upon compliance with ARTICLE VI.O of this Plan as determined by the Distribution Agent, by a Holder of a Claim evidenced by a security or note, such Holder will, for all purposes under this Plan, be deemed to have surrendered such security or note to the Distribution Agent.

ARTICLE VII.
PROCEDURES FOR RESOLVING CONTINGENT,
UNLIQUIDATED AND DISPUTED CLAIMS

A. Filing of Proofs of Claim

Unless such Claim appeared in the Schedules and is not listed as disputed, contingent, or unliquidated, or such Claim has otherwise been Allowed or paid, each Holder of a Claim was required to file a Proof of Claim on or prior to the Bar Date.

B. Disputed Claims

Following the Effective Date, each of the Reorganized Debtor or the Claimant Trustee, as applicable, may File with the Bankruptcy Court an objection to the allowance of any Disputed Claim or Disputed Equity Interest, request the Bankruptcy Court subordinate any Claims to Subordinated Claims, or any other appropriate motion or adversary proceeding with respect to the foregoing by the Claims Objection Deadline or, at the discretion of the Reorganized Debtor or Claimant Trustee, as applicable, compromised, settled, withdrew or resolved without further order of the Bankruptcy Court, and (ii) unless otherwise provided in the Confirmation Order, the Reorganized Debtor or the Claimant Trust, as applicable, are authorized to settle, or withdraw any objections to, any Disputed Claim or Disputed Equity Interests following the Effective Date without further notice to creditors (other than the Entity holding such Disputed Claim or Disputed Equity Interest) or authorization of the Bankruptcy Court, in which event such Claim or Equity Interest shall be deemed to be an Allowed Claim or Equity Interest in the amount compromised for purposes of this Plan.

C. Procedures Regarding Disputed Claims or Disputed Equity Interests

No payment or other distribution or treatment shall be made on account of a Disputed Claim or Disputed Equity Interest unless and until such Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interests and the amount of such Allowed Claim or Equity Interest, as applicable, is determined by order of the Bankruptcy Court or by stipulation between the Reorganized Debtor or Claimant Trust, as applicable, and the Holder of the Claim or Equity Interest.

D. Allowance of Claims and Equity Interests

Following the date on which a Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interest after the Distribution Date, the Distribution Agent shall make a distribution to the Holder of such Allowed Claim or Equity Interest in accordance with the Plan.

1. Allowance of Claims

After the Effective Date and subject to the other provisions of this Plan, the Reorganized Debtor or the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Claim. Except as expressly provided in this Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim or Equity Interest will become an Allowed Claim or Equity Interest unless and until such Claim or Equity Interest is deemed Allowed under this Plan or the Bankruptcy Code or the Bankruptcy Court has entered an order, including, without limitation, the Confirmation Order, in the Chapter 11 Case allowing such Claim or Equity Interest.

2. Estimation

Subject to the other provisions of this Plan, the Debtor, prior to the Effective Date, and the Reorganized Debtor or the Claimant Trustee, as applicable, after the Effective Date, may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim or Disputed Equity Interest pursuant to applicable law and in accordance with this Plan and (b) any contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, and the Bankruptcy Court will retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim or Disputed Equity Interest, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any Claim or Equity Interest or during the pendency of any appeal relating to any such objection. All of the aforementioned objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims or Equity Interests may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court. The rights and objections of all parties are reserved in connection with any such estimation proceeding.

3. Disallowance of Claims

Any Claims or Equity Interests held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code, or that are a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and holders of such Claims or Interests may not receive any distributions on account of such Claims or Interests until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court Order with respect thereto has been entered and all sums due, if any, to the Reorganized Debtor or the Claimant Trust, as applicable, by that Entity have been turned over or paid to the Reorganized Debtor or the Claimant Trust, as applicable.

EXCEPT AS OTHERWISE PROVIDED HEREIN OR AS AGREED TO BY THE DEBTOR, REORGANIZED DEBTOR, OR CLAIMANT TRUSTEE, AS APPLICABLE, ANY AND ALL PROOFS OF CLAIM FILED AFTER THE BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH

LATE PROOF OF CLAIM HAS BEEN DEEMED TIMELY FILED BY A FINAL ORDER.

**ARTICLE VIII.
EFFECTIVENESS OF THIS PLAN**

A. Conditions Precedent to the Effective Date

The Effective Date of this Plan will be conditioned upon the satisfaction or waiver by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee with such consent not to be unreasonably withheld), pursuant to the provisions of ARTICLE VIII.B of this Plan of the following:

- This Plan and the Plan Documents, including the Claimant Trust Agreement and the Reorganized Limited Partnership Agreement, and all schedules, documents, supplements and exhibits to this Plan shall have been Filed in form and substance reasonably acceptable to the Debtor and the Committee.
- The Confirmation Order shall have become a Final Order and shall be in form and substance reasonably acceptable to the Debtor and the Committee. The Confirmation Order shall provide that, among other things, (i) the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee are authorized to take all actions necessary or appropriate to effectuate and consummate this Plan, including, without limitation, (a) entering into, implementing, effectuating, and consummating the contracts, instruments, releases, and other agreements or documents created in connection with or described in this Plan, (b) assuming the Executory Contracts and Unexpired Leases set forth in the Plan Supplement, (c) making all distributions and issuances as required under this Plan; and (d) entering into any transactions as set forth in the Plan Documents; (ii) the provisions of the Confirmation Order and this Plan are nonseverable and mutually dependent; (iii) the implementation of this Plan in accordance with its terms is authorized; (iv) pursuant to section 1146 of the Bankruptcy Code, the delivery of any deed or other instrument or transfer order, in furtherance of, or in connection with this Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition or transfer of Assets contemplated under this Plan, shall not be subject to any Stamp or Similar Tax; and (v) the vesting of the Claimant Trust Assets in the Claimant Trust and the Reorganized Debtor Assets in the Reorganized Debtor, in each case as of the Effective Date free and clear of liens and claims to the fullest extent permissible under applicable law pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.
- All documents and agreements necessary to implement this Plan, including without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, in each case in form and substance reasonably acceptable to the Debtor and the Committee, shall have (a) been tendered for delivery, and (b) been effected by, executed by, or otherwise deemed binding

upon, all Entities party thereto and shall be in full force and effect. All conditions precedent to such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.

- All authorizations, consents, actions, documents, approvals (including any governmental approvals), certificates and agreements necessary to implement this Plan, including, without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, shall have been obtained, effected or executed and delivered to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable laws and any applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain or prevent effectiveness or consummation of the Restructuring.
- The Debtor shall have obtained applicable directors' and officers' insurance coverage that is acceptable to each of the Debtor, the Committee, the Claimant Trust Oversight Committee, the Claimant Trustee and the Litigation Trustee.
- The Professional Fee Reserve shall be funded pursuant to this Plan in an amount determined by the Debtor in good faith.

B. Waiver of Conditions

The conditions to effectiveness of this Plan set forth in this ARTICLE VIII (other than that the Confirmation Order shall have been entered) may be waived in whole or in part by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee) and any applicable parties in Section VII.A of this Plan, without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or effectuate this Plan. The failure to satisfy or waive a condition to the Effective Date may be asserted by the Debtor regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtor to exercise any of the foregoing rights will not be deemed a waiver of any other rights, and each right will be deemed an ongoing right that may be asserted at any time by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable.

C. Dissolution of the Committee

On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee's Professionals will cease to have any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's

Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan and the Claimant Trust Agreement in connection with such representation.

ARTICLE IX.

EXCULPATION, INJUNCTION AND RELATED PROVISIONS

A. General

Notwithstanding anything contained in the Plan to the contrary, the allowance, classification and treatment of all Allowed Claims and Equity Interests and their respective distributions and treatments under the Plan shall take into account the relative priority and rights of the Claims and the Equity Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise.

B. Discharge of Claims

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by this Plan or the Confirmation Order, all consideration distributed under this Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to this Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by this Plan or the Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

C. Exculpation

Subject in all respects to ARTICLE XII.D of this Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(iv); *provided, however*, the foregoing will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross

negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of this Plan, including ARTICLE IV.C.2, protecting such Exculpated Parties from liability.

D. Releases by the Debtor

On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person.

Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

Notwithstanding anything herein to the contrary, any release provided pursuant to this ARTICLE IX.D (i) with respect to a Senior Employee, is conditioned in all respects on (a) such Senior Employee executing a Senior Employee Stipulation on or prior to the Effective Date and (b) the reduction of such Senior Employee's Allowed Claim as set forth in the Senior Employee Stipulation (such amount, the "Reduced Employee Claim"), and (ii) with respect to any Employee, including a Senior Employee, shall be deemed null and void and of no force and effect (1) if there is more than one member of the Claimant Trust Oversight Committee who does not represent entities holding a Disputed or Allowed Claim (the "Independent Members"), the Claimant Trustee and the Independent Members by majority vote determine or (2) if there is only one Independent Member, the Independent Member after discussion with the Claimant Trustee, determines (in each case after discussing with the full Claimant Trust Oversight Committee) that such Employee (regardless of whether the Employee is then currently employed by the Debtor, the Reorganized Debtor, or the Claimant Trustee):

- sues, attempts to sue, or threatens or works with or assists any entity or person to sue, attempt to sue, or threaten the Reorganized Debtor, the Claimant Trust, the Litigation

Sub-Trust, or any of their respective employees or agents, or any Released Party on or in connection with any claim or cause of action arising prior to the Effective Date,

- has taken any action that, impairs or harms the value of the Claimant Trust Assets or the Reorganized Debtor Assets, or
- (x) upon the request of the Claimant Trustee, has failed to provide reasonable assistance in good faith to the Claimant Trustee or the Reorganized Debtor with respect to (1) the monetization of the Claimant Trust Assets or Reorganized Debtor Assets, as applicable, or (2) the resolution of Claims, or (y) has taken any action that impedes or frustrates the Claimant Trustee or the Reorganized Debtor with respect to any of the foregoing.

Provided, however, that the release provided pursuant to this ARTICLE IX.D will vest and the Employee will be indefeasibly released pursuant to this ARTICLE IX.D if such Employee's release has not been deemed null and void and of no force and effect on or prior to the date that is the date of dissolution of the Claimant Trust pursuant to the Claimant Trust Agreement.

By executing the Senior Employee Stipulation embodying this release, each Senior Employee acknowledges and agrees, without limitation, to the terms of this release and the tolling agreement contained in the Senior Employee Stipulation.

The provisions of this release and the execution of a Senior Employee Stipulation will not in any way prevent or limit any Employee from (i) prosecuting its Claims, if any, against the Debtor's Estate, (ii) defending him or herself against any claims or causes of action brought against the Employee by a third party, or (iii) assisting other persons in defending themselves from any Estate Claims brought by the Litigation Trustee (but only with respect to Estate Claims brought by the Litigation Trustee and not collection or other actions brought by the Claimant Trustee).

E. Preservation of Rights of Action

1. Maintenance of Causes of Action

Except as otherwise provided in this Plan, after the Effective Date, the Reorganized Debtor or the Claimant Trust will retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Causes of Action included in the Reorganized Debtor Assets or Claimant Trust Assets, as applicable, whether existing as of the Petition Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Case and, as the successors in interest to the Debtor and the Estate, may, and will have the exclusive right to, enforce, sue on, settle, compromise, transfer or assign (or decline to do any of the foregoing) any or all of the Causes of Action without notice to or approval from the Bankruptcy Court.

2. Preservation of All Causes of Action Not Expressly Settled or Released

Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in this Plan or any Final

Order (including, without limitation, the Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor or Claimant Trust, as applicable (including, without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of this Plan based on the Disclosure Statement, this Plan or the Confirmation Order, except where such Causes of Action have been expressly released in this Plan or any other Final Order (including, without limitation, the Confirmation Order). In addition, the right of the Reorganized Debtor or the Claimant Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

F. Injunction

Upon entry of the Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan.

Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

The injunctions set forth herein shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property.

Subject in all respects to ARTICLE XII.D, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or

arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court (i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in ARTICLE XI, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

G. Duration of Injunctions and Stays

ARTICLE II. Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Court will enter an equivalent order under Section 105.

H. Continuance of January 9 Order

Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, the restrictions set forth in paragraphs 9 and 10 of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [D.I. 339] shall remain in full force and effect following the Effective Date.

ARTICLE X. BINDING NATURE OF PLAN

On the Effective Date, and effective as of the Effective Date, the Plan, including, without limitation, the provisions in ARTICLE IX, will bind, and will be deemed binding upon, all Holders of Claims against and Equity Interests in the Debtor and such Holder's respective successors and assigns, to the maximum extent permitted by applicable law, notwithstanding whether or not such Holder will receive or retain any property or interest in property under the Plan. All Claims and Debts shall be fixed and adjusted pursuant to this Plan. The Plan shall also bind any taxing authority, recorder of deeds, or similar official for any county, state,

Governmental Unit or parish in which any instrument related to the Plan or related to any transaction contemplated thereby is to be recorded with respect to any taxes of the kind specified in Bankruptcy Code section 1146(a).

ARTICLE XI. RETENTION OF JURISDICTION

Pursuant to sections 105 and 1142 of the Bankruptcy Code and notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the Chapter 11 Case and all Entities with respect to all matters related to the Chapter 11 Case, the Reorganized Debtor, the Claimant Trust, and this Plan to the maximum extent legally permissible, including, without limitation, jurisdiction to:

- allow, disallow, determine, liquidate, classify, estimate or establish the priority, secured, unsecured, or subordinated status of any Claim or Equity Interest, including, without limitation, the resolution of any request for payment of any Administrative Expense Claim and the resolution of any and all objections to the allowance or priority of any Claim or Equity Interest;
- grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or this Plan, for periods ending on or before the Effective Date; *provided, however*, that, from and after the Effective Date, the Reorganized Debtor shall pay Professionals in the ordinary course of business for any work performed after the Effective Date subject to the terms of this Plan and the Confirmation Order, and such payment shall not be subject to the approval of the Bankruptcy Court;
- resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect to which the Debtor, Reorganized Debtor, or Claimant Trust may be liable and to adjudicate and, if necessary, liquidate, any Claims arising therefrom, including, without limitation, any dispute regarding whether a contract or lease is or was executory or expired;
- make any determination with respect to a claim or cause of action against a Protected Party as set forth in ARTICLE IX;
- resolve any claim or cause of action against an Exculpated Party or Protected Party arising from or related to the Chapter 11 Case, the negotiation of this Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, or the transactions in furtherance of the foregoing;
- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any sale, disposition, assignment or other transfer of the Reorganized Debtor Assets or Claimant Trust Assets, including any break-up compensation or

- expense reimbursement that may be requested by a purchaser thereof; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;
- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any borrowing or the incurrence of indebtedness, whether secured or unsecured by the Reorganized Debtor or Claimant Trust; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;
 - resolve any issues related to any matters adjudicated in the Chapter 11 Case;
 - ensure that distributions to Holders of Allowed Claims and Allowed Equity Interests are accomplished pursuant to the provisions of this Plan;
 - decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action (including Estate Claims) that are pending as of the Effective Date or that may be commenced in the future, including approval of any settlements, compromises, or other resolutions as may be requested by the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee whether under Bankruptcy Rule 9019 or otherwise, and grant or deny any applications involving the Debtor that may be pending on the Effective Date or instituted by the Reorganized Debtor, the Claimant Trustee, or Litigation Trustee after the Effective Date, provided that the Reorganized Debtor, the Claimant Trustee, and the Litigation Trustee shall reserve the right to commence actions in all appropriate forums and jurisdictions;
 - enter such orders as may be necessary or appropriate to implement, effectuate, or consummate the provisions of this Plan, the Plan Documents, and all other contracts, instruments, releases, and other agreements or documents adopted in connection with this Plan, the Plan Documents, or the Disclosure Statement;
 - resolve any cases, controversies, suits or disputes that may arise in connection with the implementation, effectiveness, consummation, interpretation, or enforcement of this Plan or any Entity's obligations incurred in connection with this Plan;
 - issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with implementation, effectiveness, consummation, or enforcement of this Plan, except as otherwise provided in this Plan;
 - enforce the terms and conditions of this Plan and the Confirmation Order;
 - resolve any cases, controversies, suits or disputes with respect to the release, exculpation, indemnification, and other provisions contained herein and enter such

orders or take such others actions as may be necessary or appropriate to implement or enforce all such releases, injunctions and other provisions;

- enter and implement such orders or take such others actions as may be necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;
- resolve any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order, the Plan Documents, or any contract, instrument, release, indenture or other agreement or document adopted in connection with this Plan or the Disclosure Statement; and
- enter an order concluding or closing the Chapter 11 Case after the Effective Date.

ARTICLE XII.

MISCELLANEOUS PROVISIONS

A. Payment of Statutory Fees and Filing of Reports

All outstanding Statutory Fees shall be paid on the Effective Date. All such fees payable, and all such fees that become due and payable, after the Effective Date shall be paid by the Reorganized Debtor when due or as soon thereafter as practicable until the Chapter 11 Case is closed, converted, or dismissed. The Claimant Trustee shall File all quarterly reports due prior to the Effective Date when they become due, in a form reasonably acceptable to the U.S. Trustee. After the Effective Date, the Claimant Trustee shall File with the Bankruptcy Court quarterly reports when they become due, in a form reasonably acceptable to the U.S. Trustee. The Reorganized Debtor shall remain obligated to pay Statutory Fees to the Office of the U.S. Trustee until the earliest of the Debtor's case being closed, dismissed, or converted to a case under chapter 7 of the Bankruptcy Code.

B. Modification of Plan

Effective as of the date hereof and subject to the limitations and rights contained in this Plan: (a) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan prior to the entry of the Confirmation Order with the consent of the Committee, such consent not to be unreasonably withheld; and (b) after the entry of the Confirmation Order, the Debtor may, after notice and hearing and entry of an order of the Bankruptcy Court, amend or modify this Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan.

C. Revocation of Plan

The Debtor reserves the right to revoke or withdraw this Plan prior to the Confirmation Date and to File a subsequent chapter 11 plan with the consent of the Committee. If the Debtor revokes or withdraws this Plan prior to the Confirmation Date, then: (i) this Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in this Plan, assumption of Executory Contracts or Unexpired Leases effected by this Plan and any document or agreement

executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Bankruptcy Court; and (iii) nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtor or any other Entity.

D. Obligations Not Changed

Notwithstanding anything in this Plan to the contrary, nothing herein will affect or otherwise limit or release any non-Debtor Entity's (including any Exculpated Party's) duties or obligations, including any contractual and indemnification obligations, to the Debtor, the Reorganized Debtor, or any other Entity whether arising under contract, statute, or otherwise.

E. Entire Agreement

Except as otherwise described herein, this Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

F. Closing of Chapter 11 Case

The Claimant Trustee shall, after the Effective Date and promptly after the full administration of the Chapter 11 Case, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Case.

G. Successors and Assigns

This Plan shall be binding upon and inure to the benefit of the Debtor and its successors and assigns, including, without limitation, the Reorganized Debtor and the Claimant Trustee. The rights, benefits, and obligations of any Person or Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such Person or Entity.

H. Reservation of Rights

Except as expressly set forth herein, this Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order and the Effective Date occurs. Neither the filing of this Plan, any statement or provision contained herein, nor the taking of any action by the Debtor, the Reorganized Debtor, the Claimant Trustee, or any other Entity with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) the Debtor, the Reorganized Debtor, or the Claimant Trustee with respect to the Holders of Claims or Equity Interests or other Entity; or (2) any Holder of a Claim or an Equity Interest or other Entity prior to the Effective Date.

Neither the exclusion or inclusion by the Debtor of any contract or lease on any exhibit, schedule, or other annex to this Plan or in the Plan Documents, nor anything contained in this

Plan, will constitute an admission by the Debtor that any such contract or lease is or is not an executory contract or lease or that the Debtor, the Reorganized Debtor, the Claimant Trustee, or their respective Affiliates has any liability thereunder.

Except as explicitly provided in this Plan, nothing herein shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the Debtor, the Reorganized Debtor, or the Claimant Trustee under any executory or non-executory contract.

Nothing in this Plan will increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, under any executory or non-executory contract or lease.

If there is a dispute regarding whether a contract or lease is or was executory at the time of its assumption under this Plan, the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract.

I. Further Assurances

The Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, all Holders of Claims and Equity Interests receiving distributions hereunder, and all other Entities shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan or the Confirmation Order. On or before the Effective Date, the Debtor shall File with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

J. Severability

If, prior to the Confirmation Date, any term or provision of this Plan is determined by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court will have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

K. Service of Documents

All notices, requests, and demands to or upon the Debtor, the Reorganized Debtor, or the Claimant Trustee to be effective shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered addressed as follows:

If to the Claimant Trust:

Highland Claimant Trust
c/o Highland Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, Texas 75201
Attention: James P. Seery, Jr.

If to the Debtor:

Highland Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, Texas 75201
Attention: James P. Seery, Jr.

with copies to:

Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Attn: Jeffrey N. Pomerantz, Esq.
Ira D. Kharasch, Esq.
Gregory V. Demo, Esq.

If to the Reorganized Debtor:

Highland Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, Texas 75201
Attention: James P. Seery, Jr.

with copies to:

Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Attn: Jeffrey N. Pomerantz, Esq.
Ira D. Kharasch, Esq.
Gregory V. Demo, Esq.

L. Exemption from Certain Transfer Taxes Pursuant to Section 1146(a) of the Bankruptcy Code

To the extent permitted by applicable law, pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any Stamp or Similar Tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate federal, state or local governmental officials or agents or taxing authority to forego

the collection of any such Stamp or Similar Tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such Stamp or Similar Tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) all actions, agreements and documents necessary to evidence and implement the provisions of and the distributions to be made under this Plan; (ii) the maintenance or creation of security or any Lien as contemplated by this Plan; and (iii) assignments, sales, or transfers executed in connection with any transaction occurring under this Plan.

M. Governing Law

Except to the extent that the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent that an exhibit or schedule to this Plan provides otherwise, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of Texas, without giving effect to the principles of conflicts of law of such jurisdiction; *provided, however*, that corporate governance matters relating to the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trust, as applicable, shall be governed by the laws of the state of organization of the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trustee, as applicable.

N. Tax Reporting and Compliance

The Debtor is hereby authorized to request an expedited determination under section 505(b) of the Bankruptcy Code of the tax liability of the Debtor is for all taxable periods ending after the Petition Date through, and including, the Effective Date.

O. Exhibits and Schedules

All exhibits and schedules to this Plan, if any, including the Exhibits and the Plan Documents, are incorporated and are a part of this Plan as if set forth in full herein.

P. Controlling Document

In the event of an inconsistency between this Plan and any other instrument or document created or executed pursuant to this Plan, or between this Plan and the Disclosure Statement, this Plan shall control. The provisions of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and of the Confirmation Order, on the other hand, shall be construed in a manner consistent with each other so as to effectuate the purposes of each; *provided, however*, that if there is determined to be any inconsistency between any provision of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and any provision of the Confirmation Order, on the other hand, that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order shall govern, and any such provisions of the Confirmation Order shall be deemed a modification of this Plan, the Disclosure Statement, and the Plan Documents, as applicable.

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Dated: January 22, 2021

Respectfully submitted,

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: 

James P. Seery, Jr.
Chief Executive Officer and Chief Restructuring
Officer

Prepared by:

PACHULSKI STANG ZIEHL & JONES LLP

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and

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Telephone: (972) 755-7100

Facsimile: (972) 755-7110

Email: MHayward@HaywardFirm.com

ZAnnable@HaywardFirm.com

Counsel for the Debtor and Debtor-in-Possession

EXHIBIT 2

Claimant Trust Agreement

CLAIMANT TRUST AGREEMENT

This Claimant Trust Agreement, effective as of _____, 2021 (as may be amended, supplemented, or otherwise modified in accordance with the terms hereof, this “Agreement”), by and among Highland Capital Management, L.P. (as debtor and debtor-in-possession, the “Debtor”), as settlor, and James P. Seery, Jr., as trustee (the “Claimant Trustee”), and [____] as Delaware trustee (the “Delaware Trustee,” and together with the Debtor and the Claimant Trustee, the “Parties”) for the benefit of the Claimant Trust Beneficiaries entitled to the Claimant Trust Assets.

RECITALS

WHEREAS, on October 16, 2019, Highland Capital Management, L.P. filed with the United States Bankruptcy Court for the District of Delaware, a voluntary petition for relief under chapter 11 of the Bankruptcy Code, which case was subsequently transferred to the Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”) and captioned *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj11 (the “Chapter 11 Case”);

WHEREAS, on November 24, 2020, the Debtor filed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1472] (as may be amended, supplemented, or otherwise modified from time to time, the “Plan”),¹ which was confirmed by the Bankruptcy Court on _____, 2021, pursuant to the Findings of Fact and Order Confirming Plan of Reorganization for the Debtor [Docket No. •] (the “Confirmation Order”);

WHEREAS, this Agreement, including all exhibits hereto, is the “Claimant Trust Agreement” described in the Plan and shall be executed on or before the Effective Date in order to facilitate implementation of the Plan; and

WHEREAS, pursuant to the Plan and Confirmation Order, the Claimant Trust Assets are to be transferred to the Claimant Trust (each as defined herein) created and evidenced by this Agreement so that (i) the Claimant Trust Assets can be held in a trust for the benefit of the Claimant Trust Beneficiaries entitled thereto in accordance with Treasury Regulation Section 301.7701-4(d) for the objectives and purposes set forth herein and in the Plan; (ii) the Claimant Trust Assets can be monetized; (iii) the Claimant Trust will transfer Estate Claims to the Litigation Sub-Trust to be prosecuted, settled, abandoned, or resolved as may be determined by the Litigation Trustee in accordance with the terms of the Litigation Sub-Trust Agreement, for the benefit of the Claimant Trust; (iv) proceeds of the Claimant Trust Assets, including Estate Claims, may be distributed to the Claimant Trust Beneficiaries² in accordance with the Plan; (v) the Claimant Trustee can resolve Disputed Claims as set forth herein and in the Plan; and

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan.

² For the avoidance of doubt, and as set forth in the Plan, Holders of Class A Limited Partnership Interests and Class B/C Limited Partnership Interests will be Claimant Trust Beneficiaries only upon certification by the Claimant Trustee that the Holders of such Claims have been paid indefeasibly in full plus, to the extent applicable, post-petition interest in accordance with the terms and conditions set forth herein and in the Plan.

(vi) administrative services relating to the activities of the Claimant Trust and relating to the implementation of the Plan can be performed by the Claimant Trustee.

DECLARATION OF TRUST

NOW, THEREFORE, in order to declare the terms and conditions hereof, and in consideration of the premises and mutual agreements herein contained, the confirmation of the Plan and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Debtor, the Claimant Trustee, and the Delaware Trustee have executed this Agreement for the benefit of the Claimant Trust Beneficiaries entitled to share in the Claimant Trust Assets and, at the direction of such Claimant Trust Beneficiaries as provided for in the Plan.

TO HAVE AND TO HOLD unto the Claimant Trustee and his successors or assigns in trust, under and subject to the terms and conditions set forth herein and for the benefit of the Claimant Trust Beneficiaries, and for the performance of and compliance with the terms hereof and of the Plan; provided, however, that upon termination of the Claimant Trust in accordance with Article IX hereof, this Claimant Trust Agreement shall cease, terminate, and be of no further force and effect, unless otherwise specifically provided for herein.

IT IS FURTHER COVENANTED AND DECLARED that the Claimant Trust Assets are to be strictly held and applied by the Claimant Trustee subject to the specific terms set forth below.

ARTICLE I. **DEFINITION AND TERMS**

1.1 Certain Definitions. Unless the context shall otherwise require and except as contained in this Section 1.1 or as otherwise defined herein, the capitalized terms used herein shall have the respective meanings assigned thereto in the “Definitions,” Section 1.1 of the Plan or if not defined therein, shall have the meanings assigned thereto in the applicable Section of the Plan. For all purposes of this Agreement, the following terms shall have the following meanings:

(a) “Acis” means collectively, Acis Capital Management, L.P. and Acis Capital Management GP, LLP.

(b) “Bankruptcy Court” has the meaning set forth in the Recitals hereof.

(c) “Cause” means (i) a Person’s willful failure to perform his material duties hereunder (which material duties shall include, without limitation, with respect to a Member, or to the extent applicable, the Claimant Trustee, regular attendance at regularly scheduled meetings of the Oversight Board), which is not remedied within 30 days of notice; (ii) a Person’s commission of an act of fraud, theft, or embezzlement during the performance of his or her duties hereunder; (iii) a Person’s conviction of a felony (other than a felony that does not involve fraud, theft, embezzlement, or jail time) with all appeals having been exhausted or appeal periods lapsed; or (iv) a Person’s gross negligence, bad faith, willful misconduct, or knowing violation of law in the performance of his or her duties hereunder.

(d) “Claimant Trust Agreement” means this Agreement.

(e) “Claimant Trustee” means James P. Seery, Jr., as the initial “Claimant Trustee” hereunder and as defined in the Plan, and any successor Claimant Trustee that may be appointed pursuant to the terms of this Agreement.

(f) “Claimant Trust” means the “Highland Claimant Trust” established in accordance with the Delaware Statutory Trust Act and Treasury Regulation Section 301.7701-4(d) pursuant to this Agreement.

(g) “Claimant Trust Assets” means (i) other than the Reorganized Debtor Assets (which are expressly excluded from this definition), all other Assets of the Estate, including, but not limited to, all Causes of Action, Available Cash, any proceeds realized or received from such Assets, all rights of setoff, recoupment, and other defenses with respect, relating to, or arising from such Assets, (ii) any Assets transferred by the Reorganized Debtor to the Claimant Trust on or after the Effective Date, (iii) the limited partnership interests in the Reorganized Debtor, and (iv) the ownership interests in New GP LLC. For the avoidance of doubt, any Causes of Action that, for any reason, are not capable of being transferred to the Claimant Trust shall constitute Reorganized Debtor Assets.

(h) “Claimant Trust Beneficiaries” means the Holders of Allowed General Unsecured Claims, Holders of Allowed Subordinated Claims, and, only upon certification by the Claimant Trustee that the Holders of such Claims have been paid indefeasibly in full plus, to the extent applicable, post-petition interest at the federal judgment rate in accordance with the terms and conditions set forth herein, Holders of Allowed Class B/C Limited Partnership Interests, and Holders of Allowed Class A Limited Partnership Interests.

(i) “Claimant Trust Expense Cash Reserve” means \$[•] million in Cash to be funded pursuant to the Plan into a bank account of the Claimant Trust on or before the Effective Date for the purpose of paying Claimant Trust Expenses in accordance herewith.

(j) “Claimant Trust Expenses” means the costs, expenses, liabilities and obligations incurred by the Claimant Trust and/or the Claimant Trustee in administering and conducting the affairs of the Claimant Trust, and otherwise carrying out the terms of the Claimant Trust and the Plan on behalf of the Claimant Trust, including without any limitation, any taxes owed by the Claimant Trust, and the fees and expenses of the Claimant Trustee and professional persons retained by the Claimant Trust or Claimant Trustee in accordance with this Agreement.

(k) “Committee Member” means a Member who is/was also a member of the Creditors’ Committee.

(l) “Conflicted Member” has the meaning set forth in Section 4.6(c) hereof.

(m) “Contingent Trust Interests” means the contingent interests in the Claimant Trust to be distributed to Holders of Class A Limited Partnership Interests and Class B/C Limited Partnership Interests in accordance with the Plan.

(n) “Creditors’ Committee” means the Official Committee of Unsecured Creditors appointed pursuant to section 1102 of the Bankruptcy Code in the Chapter 11 Case, comprised of Acis, Meta-e Discovery, the Redeemer Committee and UBS.

(o) “Delaware Statutory Trust Act” means the Delaware Statutory Trust Act 12 Del C. §3801, et seq. as amended from time to time.

(p) “Delaware Trustee” has the meaning set forth in the introduction hereof.

(q) “Disability” means as a result of the Claimant Trustee’s or a Member’s incapacity due to physical or mental illness as determined by an accredited physician or psychologist, as applicable, selected by the Claimant Trustee or the Member, as applicable, the Claimant Trustee or such Member has been substantially unable to perform his or her duties hereunder for three (3) consecutive months or for an aggregate of 180 days during any period of twelve (12) consecutive months.

(r) “Disinterested Members” has the meaning set forth in Section 4.1 hereof.

(s) “Disputed Claims Reserve” means the reserve account to be opened by the Claimant Trust on or after the Effective Date and funded in an initial amount determined by the Claimant Trustee [(in a manner consistent with the Plan and with the consent of a simple majority of the Oversight Board)] to be sufficient to pay Disputed Claims under the Plan.

(t) “Employees” means the employees of the Debtor set forth in the Plan Supplement.

(u) “Employee Claims” means any General Unsecured Claim held by an Employee other than the Claims of the Senior Employees subject to stipulations (provided such stipulations are executed by any such Senior Employee of the Debtor prior to the Effective Date).

(v) “Estate Claims” has the meaning given to it in Exhibit A to the *Notice of Final Term Sheet* [Docket No. 354].

(w) “Equity Trust Interests” has the meaning given to it in Section 5.1(c) hereof.

(x) “Exchange Act” means the Securities Exchange Act of 1934, as amended.

(y) “General Unsecured Claim Trust Interests” means interests in the Claimant Trust to be distributed to Holders of Allowed Class 8 General Unsecured Claims (including Disputed General Unsecured Claims that are subsequently Allowed) in accordance with the Plan.

(z) “GUC Beneficiaries” means the Claimant Trust Beneficiaries who hold General Unsecured Claim Trust Interests.

(aa) “GUC Payment Certification” has the meaning given to it in Section 5.1(c) hereof.

(bb) “HarbourVest” means, collectively, HarbourVest 2017 Global Fund, L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment, L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners, L.P.

(cc) “Investment Advisers Act” means the Investment Advisers Act of 1940, as amended.

(dd) “Investment Company Act” means the Investment Company Act of 1940, as amended.

(ee) “Litigation Sub-Trust” means the sub-trust created pursuant to the Litigation Sub-Trust Agreement, which shall hold the Claimant Trust Assets that are Estate Claims and investigate, litigate, and/or settle the Estate Claims for the benefit of the Claimant Trust.

(ff) “Litigation Sub-Trust Agreement” means the litigation sub-trust agreement to be entered into by and between the Claimant Trustee and Litigation Trustee establishing and setting forth the terms and conditions of the Litigation Sub-Trust and governing the rights and responsibilities of the Litigation Trustee.

(gg) “Litigation Trustee” means Marc S. Kirschner, and any successor Litigation Trustee that may be appointed pursuant to the terms of the Litigation Sub-Trust Agreement, who shall be responsible for investigating, litigating, and settling the Estate Claims for the benefit of the Claimant Trust in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement.

(hh) “Managed Funds” means Highland Multi-Strategy Credit Fund, L.P., Highland Restoration Capital Partners, L.P., and any other investment vehicle managed by the Debtor pursuant to an Executory Contract assumed pursuant to the Plan; *provided, however*, that the Highland Select Equity Fund, L.P. (and its direct and indirect subsidiaries) will not be considered a Managed Fund for purposes hereof.

(ii) “Material Claims” means the Claims asserted by UBS, Patrick Hagaman Daugherty, Integrated Financial Associates, Inc., and the Employees.

(jj) “Member” means a Person that is member of the Oversight Board.

(kk) “New GP LLC” means the general partner of the Reorganized Debtor.

(ll) “Oversight Board” means the board comprised of five (5) Members established pursuant to the Plan and Article III of this Agreement to oversee the Claimant Trustee’s performance of his duties and otherwise serve the functions set forth in this Agreement and those of the “Claimant Trust Oversight Committee” described in the Plan. Subject to the terms of this Agreement, the initial Members of the Oversight Board shall be: (i) Eric Felton, as representative of the Redeemer Committee; (ii) Josh Terry, as representative of Acis; (iii) Elizabeth Kozlowski, as representative of UBS; (iv) Paul McVoy, as representative of Meta-e Discovery; and (v) David Pauker.

(mm) “Plan” has the meaning set forth in the Recitals hereof.

(nn) “Privileges” means the Debtor’s rights, title and interests in and to any privilege or immunity attaching to any documents or communications (whether written or oral) associated with any of the Estate Claims or Employee Claims, including, without limitation, to, attorney-client privilege and work-product privilege as defined in Rule 502(g) of the Federal Rules of Evidence; provided, however, that “Privileges” shall not include the work-product privilege of any non-Employee attorney or attorneys that has not been previously shared with the Debtor or any of its employees and the work-product privilege shall remain with the non-Employee attorney or attorneys who created such work product so long as it has not been previously shared with the Debtor or any of its employees, or otherwise waived.

(oo) “PSZJ” means Pachulski Stang Ziehl & Jones LLP.

(pp) “Redeemer Committee” means the Redeemer Committee of the Highland Crusader Fund.

(qq) “Registrar” has the meaning given to it in Section 5.3(a) hereof.

(rr) “Reorganized Debtor Assets” means any limited and general partnership interests held by the Debtor, the management of the Managed Funds and those Causes of Action (including, without limitation, claims for breach of fiduciary duty), that, for any reason, are not capable of being transferred to the Claimant Trust. For the avoidance of doubt, “Reorganized Debtor Assets” includes any partnership interests or shares of Managed Funds held by the Debtor but does not include the underlying portfolio assets held by the Managed Funds.

(ss) “Securities Act” means the Securities Act of 1933, as amended.

(tt) “Subordinated Beneficiaries” means the Claimant Trust Beneficiaries who hold Subordinated Claim Trust Interests.

(uu) “Subordinated Claim Trust Interests” means the subordinated interests in the Claimant Trust to be distributed to Holders of Allowed Class 9 Subordinated Claims in accordance with the Plan.

(vv) “TIA” means the Trust Indenture Act of 1939, as amended.

(ww) “Trust Interests” means collectively the General Unsecured Claim Trust Interests, Subordinated Claim Trust Interests, and Equity Trust Interests.

(xx) “Trust Register” has the meaning given to it in Section 5.3(b) hereof.

(yy) “Trustees” means collectively the Claimant Trustee and Delaware Trustee.

(zz) “UBS” means collectively UBS Securities LLC and UBS AG London Branch.

(aaa) “WilmerHale” Wilmer Cutler Pickering Hale & Dorr LLP.

1.2 General Construction. As used in this Agreement, the masculine, feminine and neuter genders, and the plural and singular numbers shall be deemed to include the others in all cases where they would apply. “Includes” and “including” are not limiting and “or” is not exclusive. References to “Articles,” “Sections” and other subdivisions, unless referring specifically to the Plan or provisions of the Bankruptcy Code, the Bankruptcy Rules, or other law, statute or regulation, refer to the corresponding Articles, Sections and other subdivisions of this Agreement, and the words “herein,” “hereafter” and words of similar import refer to this Agreement as a whole and not to any particular Article, Section, or subdivision of this Agreement. Amounts expressed in dollars or following the symbol “\$” shall be deemed to be in United States dollars. References to agreements or instruments shall be deemed to refer to such agreements or instruments as the same may be amended, supplemented, or otherwise modified in accordance with the terms thereof.

1.3 Incorporation of the Plan. The Plan is hereby incorporated into this Agreement and made a part hereof by this reference.

ARTICLE II. **ESTABLISHMENT OF THE CLAIMANT TRUST**

2.1 Creation of Name of Trust.

(a) The Claimant Trust is hereby created as a statutory trust under the Delaware Statutory Trust Act and shall be called the “Highland Claimant Trust.” The Claimant Trustee shall be empowered to conduct all business and hold all property constituting the Claimant Trust Assets in such name in accordance with the terms and conditions set forth herein.

(b) The Trustees shall cause to be executed and filed in the office of the Secretary of State of the State of Delaware the Certificate of Trust and agree to execute, acting solely in their capacity as Trustees, such certificates as may from time to time be required under the Delaware Statutory Trust Act or any other Delaware law.

2.2 Objectives.

(a) The Claimant Trust is established for the purpose of satisfying Allowed General Unsecured Claims and Allowed Subordinated Claims (and only to the extent provided herein, Allowed Class A Limited Partnership Interests and Class B/C Limited Partnership Interests) under the Plan, by monetizing the Claimant Trust Assets transferred to it and making distributions to the Claimant Trust Beneficiaries. The Claimant Trust shall not continue or engage in any trade or business except to the extent reasonably necessary to monetize and distribute the Claimant Trust Assets consistent with this Agreement and the Plan and act as sole member and manager of New GP LLC. The Claimant Trust shall provide a mechanism for (i) the monetization of the Claimant Trust Assets and (ii) the distribution of the proceeds thereof, net of all claims, expenses, charges, liabilities, and obligations of the Claimant Trust, to the Claimant Trust Beneficiaries in accordance with the Plan. In furtherance of this distribution objective, the Claimant Trust will, from time to time, prosecute and resolve objections to certain Claims and Interests as provided herein and in the Plan.

(b) It is intended that the Claimant Trust be classified for federal income tax purposes as a “liquidating trust” within the meaning of section 301.7701-4(d) of the Treasury Regulations. In furtherance of this objective, the Claimant Trustee shall, in his business judgment, make continuing best efforts to (i) dispose of or monetize the Claimant Trust Assets and resolve Claims, (ii) make timely distributions, and (iii) not unduly prolong the duration of the Claimant Trust, in each case in accordance with this Agreement.

2.3 Nature and Purposes of the Claimant Trust.

(a) The Claimant Trust is organized and established as a trust for the purpose of monetizing the Claimant Trust Assets and making distributions to Claimant Trust Beneficiaries in a manner consistent with “liquidating trust” status under Treasury Regulation Section 301.7701-4(d). The Claimant Trust shall retain all rights to commence and pursue all Causes of Action of the Debtor other than (i) Estate Claims, which shall be assigned to and commenced and pursued by the Litigation Trustee pursuant to the terms of the Litigation Sub-Trust Agreement, and (ii) Causes of Action constituting Reorganized Debtor Assets, if any, which shall be commenced and pursued by the Reorganized Debtor at the direction of the Claimant Trust as sole member of New GP LLC pursuant to the terms of the Reorganized Limited Partnership Agreement. The Claimant Trust and Claimant Trustee shall have and retain, and, as applicable, assign and transfer to the Litigation Sub-Trust and Litigation Trustee, any and all rights, defenses, cross-claims and counter-claims held by the Debtor with respect to any Claim as of the Petition Date. On and after the date hereof, in accordance with and subject to the Plan, the Claimant Trustee shall have the authority to (i) compromise, settle or otherwise resolve, or withdraw any objections to Claims against the Debtor, provided, however, the Claimant Trustee shall only have the authority to compromise or settle any Employee Claim with the unanimous consent of the Oversight Board and in the absence of unanimous consent, any such Employee Claim shall be transferred to the Litigation Sub-Trust and be litigated, comprised, settled, or otherwise resolved exclusively by the Litigation Trustee and (ii) compromise, settle, or otherwise resolve any Disputed Claims without approval of the Bankruptcy Court, which authority may be shared with or transferred to the Litigation Trustee in accordance with the terms of the Litigation Sub-Trust Agreement. For the avoidance of doubt, the Claimant Trust,

pursuant to section 1123(b)(3)(B) of the Bankruptcy Code and applicable state trust law, is appointed as the successor-in-interest to, and representative of, the Debtor and its Estate for the retention, enforcement, settlement, and adjustment of all Claims other than Estate Claims, the Employee Claims, and those Claims constituting Reorganized Debtor Assets.

(b) The Claimant Trust shall be administered by the Claimant Trustee, in accordance with this Agreement, for the following purposes:

(i) to manage and monetize the Claimant Trust Assets in an expeditious but orderly manner with a view towards maximizing value within a reasonable time period;

(ii) to litigate and settle Claims in Class 8 and Class 9 (other than the Employee Claims, which shall be litigated and/or settled by the Litigation Trustee if the Oversight Board does not unanimously approve of any proposed settlement of such Employee Claim by the Claimant Trustee) and any of the Causes of Action included in the Claimant Trust Assets (including any cross-claims and counter-claims); provided, however, that Estate Claims transferred to the Litigation Sub-Trust shall be litigated and settled by the Litigation Trustee pursuant to the terms of the Litigation Sub-Trust Agreement;

(iii) to distribute net proceeds of the Claimant Trust Assets to the Claimant Trust Beneficiaries;

(iv) to distribute funds from the Disputed Claims Reserve to Holders of Trust Interests or to the Reorganized Debtor for distribution to Holders of Disputed Claims in each case in accordance with the Plan from time to time as any such Holder's Disputed Claim becomes an Allowed Claim under the Plan;

(v) to distribute funds to the Litigation Sub-Trust at the direction the Oversight Board;

(vi) to serve as the limited partner of, and to hold the limited partnership interests in, the Reorganized Debtor;

(vii) to serve as the sole member and manager of New GP LLC, the Reorganized Debtor's general partner;

(viii) to oversee the management and monetization of the Reorganized Debtor Assets pursuant to the terms of the Reorganized Limited Partnership Agreement, in its capacity as the sole member and manager of New GP LLC pursuant to the terms of the New GP LLC Documents, all with a view toward maximizing value in a reasonable time in a manner consistent with the Reorganized Debtor's fiduciary duties as investment adviser to the Managed Funds; and

(ix) to perform any other functions and take any other actions provided for or permitted by this Agreement and the Plan, and in any other agreement executed by the Claimant Trustee.

2.4 Transfer of Assets and Rights to the Claimant Trust; Litigation Sub-Trust.

(a) On the Effective Date, pursuant to the Plan, the Debtor shall irrevocably transfer, assign, and deliver, and shall be deemed to have transferred, assigned, and delivered, all Claimant Trust Assets and related Privileges held by the Debtor to the Claimant Trust free and clear of all Claims, Interests, Liens, and other encumbrances, and liabilities, except as provided in the Plan and this Agreement. To the extent certain assets comprising the Claimant Trust Assets, because of their nature or because such assets will accrue or become transferable subsequent to the Effective Date, and cannot be transferred to, vested in, and assumed by the Claimant Trust on such date, such assets shall be considered Reorganized Debtor Assets, which may be subsequently transferred to the Claimant Trust by the Reorganized Debtor consistent with the terms of the Reorganized Limited Partnership Agreement after such date.

(b) On or as soon as practicable after the Effective Date, the Claimant Trust shall irrevocably transfer, assign, and deliver, and shall be deemed to have transferred, assigned, and delivered, all Estate Claims and related Privileges held by the Claimant Trust to the Litigation Sub-Trust Trust free and clear of all Claims, Interests, Liens, and other encumbrances, and liabilities, except as provided in the Plan, this Agreement, and the Litigation Sub-Trust Agreement. Following the transfer of such Privileges, the Litigation Trustee shall have the power to waive the Privileges being so assigned and transferred.

(c) On or before the Effective Date, and continuing thereafter, the Debtor or Reorganized Debtor, as applicable, shall provide (i) for the Claimant Trustee's and Litigation Trustee's reasonable access to all records and information in the Debtor's and Reorganized Debtor's possession, custody or control, (ii) that all Privileges related to the Claimant Trust Assets shall transfer to and vest exclusively in the Claimant Trust (except for those Privileges that will be transferred and assigned to the Litigation Sub-Trust in respect of the Estate Claims), and (iii) subject to Section 3.12(c), the Debtor and Reorganized Debtor shall preserve all records and documents (including all electronic records or documents), including, but not limited to, the Debtor's file server, email server, email archiving system, master journal, SharePoint, Oracle E-Business Suite, Advent Geneva, Siepe database, Bloomberg chat data, and any backups of the foregoing, until such time as the Claimant Trustee, with the consent of the Oversight Board and, if pertaining to any of the Estate Claims, the Litigation Trustee, directs the Reorganized Debtor, as sole member of its general partner, that such records are no longer required to be preserved. For the purposes of transfer of documents, the Claimant Trust or Litigation Sub-Trust, as applicable, is an assignee and successor to the Debtor in respect of the Claimant Trust Assets and Estate Claims, respectively, and shall be treated as such in any review of confidentiality restrictions in requested documents.

(d) Until the Claimant Trust terminates pursuant to the terms hereof, legal title to the Claimant Trust Assets (other than Estate Claims) and all property contained therein shall be vested at all times in the Claimant Trust as a separate legal entity, except where applicable law in any jurisdiction requires title to any part of the Claimant Trust Assets to be vested in the Claimant Trustee, in which case title shall be deemed to be vested in the Claimant Trustee, solely in his capacity as Claimant Trustee. For purposes of such jurisdictions, the term Claimant Trust, as used herein, shall be read to mean the Claimant Trustee.

2.5 Principal Office. The principal office of the Claimant Trust shall be maintained by the Claimant Trustee at the following address:_____].

2.6 Acceptance. The Claimant Trustee accepts the Claimant Trust imposed by this Agreement and agrees to observe and perform that Claimant Trust, on and subject to the terms and conditions set forth herein and in the Plan.

2.7 Further Assurances. The Debtor, Reorganized Debtor, and any successors thereof will, upon reasonable request of the Claimant Trustee, execute, acknowledge and deliver such further instruments and do such further acts as may be necessary or proper to transfer to the Claimant Trustee any portion of the Claimant Trust Assets intended to be conveyed hereby and in the Plan in the form and manner provided for hereby and in the Plan and to vest in the Claimant Trustee the powers, instruments or funds in trust hereunder.

2.8 Incidents of Ownership. The Claimant Trust Beneficiaries shall be the sole beneficiaries of the Claimant Trust and the Claimant Trustee shall retain only such incidents of ownership as are necessary to undertake the actions and transactions authorized herein.

ARTICLE III. **THE TRUSTEES**

3.1 Role. In furtherance of and consistent with the purpose of the Claimant Trust, the Plan, and this Agreement, the Claimant Trustee, subject to the terms and conditions contained herein, in the Plan, and in the Confirmation Order, shall serve as Claimant Trustee with respect to the Claimant Trust Assets for the benefit of the Claimant Trust Beneficiaries and maintain, manage, and take action on behalf of the Claimant Trust.

3.2 Authority.

(a) In connection with the administration of the Claimant Trust, in addition to any and all of the powers enumerated elsewhere herein, the Claimant Trustee shall, in an expeditious but orderly manner, monetize the Claimant Trust Assets, make timely distributions and not unduly prolong the duration of the Claimant Trust. The Claimant Trustee shall have the power and authority and is authorized to perform any and all acts necessary and desirable to accomplish the purposes of this Agreement and the provisions of the Plan and the Confirmation Order relating to the Claimant Trust, within the bounds of this Agreement, the Plan, the Confirmation Order, and applicable law. The Claimant Trustee will monetize the Claimant Trust Assets with a view toward maximizing value in a reasonable time.

(b) The Claimant Trustee, subject to the limitations set forth in Section 3.3 of this Agreement shall have the right to prosecute, defend, compromise, adjust, arbitrate, abandon, estimate, or otherwise deal with and settle any and all Claims and Causes of Action that are part of the Claimant Trust Assets, other than the Estate Claims transferred to the Litigation Sub-Trust, as the Claimant Trustee determines is in the best interests of the Claimant Trust; provided, however, that if the Claimant Trustee proposes a settlement of an Employee Claim and does not obtain unanimous consent of the Oversight Board of such settlement, such Employee Claim shall be transferred to the Litigation Sub-Trust for the Litigation Trustee to litigate. To the extent that any action has been taken to prosecute, defend, compromise, adjust, arbitrate, abandon, or

otherwise deal with and settle any such Claims and Causes of Action prior to the Effective Date, on the Effective Date the Claimant Trustee shall be substituted for the Debtor in connection therewith in accordance with Rule 25 of the Federal Rules of Civil Procedure, made applicable by Rule 7025 of the Federal Rules of Bankruptcy Procedure, and the caption with respect to such pending action shall be changed to the following “[Claimant Trustee], not individually but solely as Claimant Trustee for the Claimant Trust, et al. v. [Defendant]”.

(c) Subject in all cases to any limitations contained herein, in the Confirmation Order, or in the Plan, the Claimant Trustee shall have the power and authority to:

(i) solely as required by Section 2.4(c), hold legal title to any and all rights of the Claimant Trust and Beneficiaries in or arising from the Claimant Trust Assets, including collecting and receiving any and all money and other property belonging to the Claimant Trust and the right to vote or exercise any other right with respect to any claim or interest relating to the Claimant Trust Assets in any case under the Bankruptcy Code and receive any distribution with respect thereto;

(ii) open accounts for the Claimant Trust and make distributions of Claimant Trust Assets in accordance herewith;

(iii) as set forth in Section 3.11, exercise and perform the rights, powers, and duties held by the Debtor with respect to the Claimant Trust Assets (other than Estate Claims), including the authority under section 1123(b)(3) of the Bankruptcy Code, and shall be deemed to be acting as a representative of the Debtor’s Estate with respect to the Claimant Trust Assets, including with respect to the sale, transfer, or other disposition of the Claimant Trust Assets;

(iv) settle or resolve any Claims in Class 8 and Class 9 other than the Material Claims and any Equity Interests;

(v) sell or otherwise monetize any publicly-traded asset for which there is a marketplace and any other assets (other than the Other Assets (as defined below)) valued less than or equal to \$3,000,000 (over a thirty-day period);

(vi) upon the direction of the Oversight Board, fund the Litigation Sub-Trust on the Effective Date and as necessary thereafter;

(vii) exercise and perform the rights, powers, and duties arising from the Claimant Trust’s role as sole member of New GP LLC, and the role of New GP LLC, as general partner of the Reorganized Debtor, including the management of the Managed Funds;

(viii) protect and enforce the rights to the Claimant Trust Assets by any method deemed appropriate, including by judicial proceedings or pursuant to any applicable bankruptcy, insolvency, moratorium or similar law and general principles of equity;

(ix) obtain reasonable insurance coverage with respect to any liabilities and obligations of the Trustees, Litigation Trustee, and the Members of the Oversight Board solely in their capacities as such, in the form of fiduciary liability insurance, a directors and

officers policy, an errors and omissions policy, or otherwise. The cost of any such insurance shall be a Claimant Trust Expense and paid by the Claimant Trustee from the Claimant Trust Assets;

(x) without further order of the Bankruptcy Court, but subject to the terms of this Agreement, employ various consultants, third-party service providers, and other professionals, including counsel, tax advisors, consultants, brokers, investment bankers, valuation counselors, and financial advisors, as the Claimant Trustee deems necessary to aid him in fulfilling his obligations under this Agreement; such consultants, third-party service providers, and other professionals shall be retained pursuant to whatever fee arrangement the Claimant Trustee deems appropriate, including contingency fee arrangements and any fees and expenses incurred by such professionals engaged by the Claimant Trustee shall be Claimant Trust Expenses and paid by the Claimant Trustee from the Claimant Trust Assets;

(xi) retain and approve compensation arrangements of an independent public accounting firm to perform such reviews and/or audits of the financial books and records of the Claimant Trust as may be required by this Agreement, the Plan, the Confirmation Order, and applicable laws and as may be reasonably and appropriate in Claimant Trustee's discretion. Subject to the foregoing, the Claimant Trustee may commit the Claimant Trust to, and shall pay, such independent public accounting firm reasonable compensation for services rendered and reasonable and documented out-of-pocket expenses incurred, and all such compensation and reimbursement shall be paid by the Claimant Trustee from Claimant Trust Assets;

(xii) prepare and file (A) tax returns for the Claimant Trust treating the Claimant Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a), (B) an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claim Reserve as a separate taxable entity, or (C) any periodic or current reports that may be required under applicable law;

(xiii) prepare and send annually to the Beneficiaries, in accordance with the tax laws, a separate statement stating a Beneficiary's interest in the Claimant Trust and its share of the Claimant Trust's income, gain, loss, deduction or credit, and to instruct all such Beneficiaries to report such items on their federal tax returns;

(xiv) to the extent applicable, assert, enforce, release, or waive any attorney-client communication, attorney work product or other Privilege or defense on behalf of the Claimant Trust (including as to any Privilege that the Debtor held prior to the Effective Date), including to provide any information to insurance carriers that the Claimant Trustee deems necessary to utilize applicable insurance coverage for any Claim or Claims;

(xv) subject to Section 3.4, invest the proceeds of the Claimant Trust Assets and all income earned by the Claimant Trust, pending any distributions in short-term certificates of deposit, in banks or other savings institutions, or other temporary, liquid investments, such as Treasury bills;

(xvi) request any appropriate tax determination with respect to the Claimant Trust, including a determination pursuant to section 505 of the Bankruptcy Code;

(xvii) take or refrain from taking any and all actions the Claimant Trustee reasonably deems necessary for the continuation, protection, and maximization of the value of the Claimant Trust Assets consistent with purposes hereof;

(xviii) take all steps and execute all instruments and documents necessary to effectuate the purpose of the Claimant Trust and the activities contemplated herein and in the Confirmation Order and the Plan, and take all actions necessary to comply with the Confirmation Order, the Plan, and this Agreement and the obligations thereunder and hereunder;

(xix) exercise such other powers and authority as may be vested in or assumed by the Claimant Trustee by any Final Order;

(xx) evaluate and determine strategy with respect to the Claimant Trust Assets, and hold, pursue, prosecute, adjust, arbitrate, compromise, release, settle or abandon the Claimant Trust Assets on behalf of the Claimant Trust; and

(xxi) with respect to the Claimant Trust Beneficiaries, perform all duties and functions of the Distribution Agent as set forth in the Plan, including distributing Cash from the Disputed Claims Reserve, solely on account of Disputed Class 1 through Class 7 Claims that were Disputed as of the Effective Date, but become Allowed, to the Reorganization Debtor such that the Reorganized Debtor can satisfy its duties and functions as Distribution Agent with respect to Claims in Class 1 through Class 7 (the foregoing subparagraphs (i)-(xxi) being collectively, the “Authorized Acts”).

(d) The Claimant Trustee and the Oversight Committee will enter into an agreement as soon as practicable after the Effective Date concerning the Claimant Trustee’s authority with respect to certain other assets, including certain portfolio company assets (the “Other Assets”).

(e) The Claimant Trustee has the power and authority to act as trustee of the Claimant Trust and perform the Authorized Acts through the date such Claimant Trustee resigns, is removed, or is otherwise unable to serve for any reason.

3.3 Limitation of Authority.

(a) Notwithstanding anything herein to the contrary, the Claimant Trust and the Claimant Trustee shall not (i) be authorized to engage in any trade or business, (ii) take any actions inconsistent with the management of the Claimant Trust Assets as are required or contemplated by applicable law, the Confirmation Order, the Plan, and this Agreement, (iii) take any action in contravention of the Confirmation Order, the Plan, or this Agreement, or (iv) cause New GP LLC to cause the Reorganized Debtor to take any action in contravention of the Plan, Plan Documents or the Confirmation Order.

(b) Notwithstanding anything herein to the contrary, and in no way limiting the terms of the Plan, the Claimant Trustee must receive the consent by vote of a simple majority

of the Oversight Board pursuant to the notice and quorum requirements set forth in Section 4.5 herein, in order to:

- (i) terminate or extend the term of the Claimant Trust;
- (ii) prosecute, litigate, settle or otherwise resolve any of the Material Claims;
- (iii) except otherwise set forth herein, sell or otherwise monetize any assets that are not Other Assets, including Reorganized Debtor Assets (other than with respect to the Managed Funds), that are valued greater than \$3,000,000 (over a thirty-day period);
- (iv) except for cash distributions made in accordance with the terms of this Agreement, make any cash distributions to Claimant Trust Beneficiaries in accordance with Article IV of the Plan;
- (v) except for any distributions made in accordance with the terms of this Agreement, make any distributions from the Disputed Claims Reserve to Holders of Disputed Claims after such time that such Holder's Claim becomes an Allowed Claim under the Plan;
- (vi) reserve or retain any cash or cash equivalents in an amount reasonably necessary to meet claims and contingent liabilities (including Disputed Claims and any indemnification obligations that may arise under Section 8.2 of this Agreement), to maintain the value of the Claimant Trust Assets, or to fund ongoing operations and administration of the Litigation Sub-Trust;
- (vii) borrow as may be necessary to fund activities of the Claimant Trust;
- (viii) determine whether the conditions under Section 5.1(c) of this Agreement have been satisfied such that a certification should be filed with the Bankruptcy Court;
- (ix) invest the Claimant Trust Assets, proceeds thereof, or any income earned by the Claimant Trust (for the avoidance of doubt, this shall not apply to investment decisions made by the Reorganized Debtor or its subsidiaries solely with respect to Managed Funds);
- (x) change the compensation of the Claimant Trustee;
- (xi) subject to ARTICLE X, make structural changes to the Claimant Trust or take other actions to minimize any tax on the Claimant Trust Assets; and
- (xii) retain counsel, experts, advisors, or any other professionals; provided, however, the Claimant Trustee shall not be required to obtain the consent of the Oversight Board for the retention of (i) PSZJ, WilmerHale, or Development Specialists, Inc. and

(ii) any other professional whose expected fees and expenses are estimated at less than or equal to \$200,000.

(c) [Reserved.]

3.4 Investment of Cash. The right and power of the Claimant Trustee to invest the Claimant Trust Assets, the proceeds thereof, or any income earned by the Claimant Trust, with majority approval of the Oversight Board, shall be limited to the right and power to invest in such Claimant Trust Assets only in Cash and U.S. Government securities as defined in section 29(a)(16) of the Investment Company Act; provided, however that (a) the scope of any such permissible investments shall be further limited to include only those investments that a “liquidating trust” within the meaning of Treasury Regulation Section 301.7701-4(d), may be permitted to hold, pursuant to the Treasury Regulations, or any modification in the Internal Revenue Service (“IRS”) guidelines, whether set forth in IRS rulings, other IRS pronouncements, or otherwise, (b) the Claimant Trustee may retain any Claimant Trust Assets received that are not Cash only for so long as may be required for the prompt and orderly monetization or other disposition of such assets, and (c) the Claimant Trustee may expend the assets of the Claimant Trust (i) as reasonably necessary to meet contingent liabilities (including indemnification and similar obligations) and maintain the value of the assets of the Claimant Trust during the pendency of this Claimant Trust, (ii) to pay Claimant Trust Expenses (including, but not limited to, any taxes imposed on the Claimant Trust and reasonable attorneys’ fees and expenses in connection with litigation), and (iii) to satisfy other liabilities incurred or assumed by the Claimant Trust (or to which the assets are otherwise subject) in accordance with the Plan or this Agreement).

3.5 Binding Nature of Actions. All actions taken and determinations made by the Claimant Trustee in accordance with the provisions of this Agreement shall be final and binding upon any and all Beneficiaries.

3.6 Term of Service. The Claimant Trustee shall serve as the Claimant Trustee for the duration of the Claimant Trust, subject to death, resignation or removal.

3.7 Resignation. The Claimant Trustee may resign as Claimant Trustee of the Claimant Trust by an instrument in writing delivered to the Bankruptcy Court and Oversight Board at least thirty (30) days before the proposed effective date of resignation. The Claimant Trustee shall continue to serve as Claimant Trustee after delivery of the Claimant Trustee’s resignation until the proposed effective date of such resignation, unless the Claimant Trustee and a simple majority of the Oversight Board consent to an earlier effective date, which earlier effective date shall be no earlier than the date of appointment of a successor Claimant Trustee in accordance with Section 3.9 hereof becomes effective.

3.8 Removal.

(a) The Claimant Trustee may be removed by a simple majority vote of the Oversight Board for Cause immediately upon notice thereof, or without Cause upon 60 days’ prior written notice. Upon the removal of the Claimant Trustee pursuant hereto, the Claimant Trustee will resign, or be deemed to have resigned, from any role or position he or she

may have at New GP LLC or the Reorganized Debtor effective upon the expiration of the foregoing 60 day period unless the Claimant Trustee and a simple majority of the Oversight Board agree otherwise.

(b) To the extent there is any dispute regarding the removal of a Claimant Trustee (including any dispute relating to any compensation or expense reimbursement due under this Agreement) the Bankruptcy Court shall retain jurisdiction to consider and adjudicate such dispute. Notwithstanding the foregoing, the Claimant Trustee will continue to serve as the Claimant Trustee after his removal until the earlier of (i) the time when a successor Claimant Trustee will become effective in accordance with Section 3.9 of this Agreement or (ii) such date as the Bankruptcy Court otherwise orders.

3.9 Appointment of Successor.

(a) Appointment of Successor. In the event of a vacancy by reason of the death or Disability (in the case of a Claimant Trustee that is a natural person), dissolution (in the case of a Claimant Trustee that is not a natural person), or removal of the Claimant Trustee, or prospective vacancy by reason of resignation, a successor Claimant Trustee shall be selected by a simple majority vote of the Oversight Board. If Members of the Oversight Board are unable to secure a majority vote, the Bankruptcy Court will determine the successor Claimant Trustee on motion of the Members. If a final decree has been entered closing the Chapter 11 Case, the Claimant Trustee may seek to reopen the Chapter 11 Case for the limited purpose of determining the successor Claimant Trustee, and the costs for such motion and costs related to re-opening the Chapter 11 Case shall be paid by the Claimant Trust. The successor Claimant Trustee shall be appointed as soon as practicable, but in any event no later than sixty (60) days after the occurrence of the vacancy or, in the case of resignation, on the effective date of the resignation of the then acting Claimant Trustee.

(b) Vesting or Rights in Successor Claimant Trustee. Every successor Claimant Trustee appointed hereunder shall execute, acknowledge, and deliver to the Claimant Trust, the exiting Claimant Trustee, the Oversight Board, and file with the Bankruptcy Court, an instrument accepting such appointment subject to the terms and provisions hereof. The successor Claimant Trustee, without any further act, deed, or conveyance shall become vested with all the rights, powers, trusts and duties of the exiting Claimant Trustee, except that the successor Claimant Trustee shall not be liable for the acts or omissions of the retiring Claimant Trustee. In no event shall the retiring Claimant Trustee be liable for the acts or omissions of the successor Claimant Trustee.

(c) Interim Claimant Trustee. During any period in which there is a vacancy in the position of Claimant Trustee, the Oversight Board shall appoint one of its Members to serve as the interim Claimant Trustee (the "Interim Trustee") until a successor Claimant Trustee is appointed pursuant to Section 3.9(a). The Interim Trustee shall be subject to all the terms and conditions applicable to a Claimant Trustee hereunder. Such Interim Trustee shall not be limited in any manner from exercising any rights or powers as a Member of the Oversight Board merely by such Person's appointment as Interim Trustee.

3.10 Continuance of Claimant Trust. The death, resignation, or removal of the Claimant Trustee shall not operate to terminate the Claimant Trust created by this Agreement or to revoke any existing agency (other than any agency of the Claimant Trustee as the Claimant Trustee) created pursuant to the terms of this Agreement or invalidate any action taken by the Claimant Trustee. In the event of the resignation or removal of the Claimant Trustee, the Claimant Trustee shall promptly (i) execute and deliver, by the effective date of resignation or removal, such documents, instruments, records, and other writings as may be reasonably requested by his successor to effect termination of the exiting Claimant Trustee's capacity under this Agreement and the conveyance of the Claimant Trust Assets then held by the exiting Claimant Trustee to the successor Claimant Trustee; (ii) deliver to the successor Claimant Trustee all non-privileged documents, instruments, records, and other writings relating to the Claimant Trust as may be in the possession or under the control of the exiting Claimant Trustee, provided, the exiting Claimant Trustee shall have the right to make and retain copies of such documents, instruments, records and other writings delivered to the successor Claimant Trustee and the cost of making such copies shall be a Claimant Trust Expense to be paid by the Claimant Trust; and (iii) otherwise assist and cooperate in effecting the assumption of the exiting Claimant Trustee's obligations and functions by his successor, provided the fees and expenses of such assistance and cooperation shall be paid to the exiting Claimant Trustee by the Claimant Trust. The exiting Claimant Trustee shall irrevocably appoint the successor Claimant Trustee as his attorney-in-fact and agent with full power of substitution for it and its name, place and stead to do any and all acts that such exiting Claimant Trustee is obligated to perform under this Section 3.10.

3.11 Claimant Trustee as "Estate Representative". The Claimant Trustee will be the exclusive trustee of the Claimant Trust Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code (the "Estate Representative") with respect to the Claimant Trust Assets, with all rights and powers attendant thereto, in addition to all rights and powers granted in the Plan and in this Agreement; provided that all rights and powers as representative of the Estate pursuant to section 1123(b)(3)(B) shall be transferred to the Litigation Trustee in respect of the Estate Claims and the Employee Claims. The Claimant Trustee will be the successor-in-interest to the Debtor with respect to any action pertaining to the Claimant Trust Assets, which was or could have been commenced by the Debtor prior to the Effective Date, except as otherwise provided in the Plan or Confirmation Order. All actions, claims, rights or interest constituting Claimant Trust Assets are preserved and retained and may be enforced, or assignable to the Litigation Sub-Trust, by the Claimant Trustee as an Estate Representative.

3.12 Books and Records.

(a) The Claimant Trustee shall maintain in respect of the Claimant Trust and the Claimant Trust Beneficiaries books and records reflecting Claimant Trust Assets in its possession and the income of the Claimant Trust and payment of expenses, liabilities, and claims against or assumed by the Claimant Trust in such detail and for such period of time as may be necessary to enable it to make full and proper accounting in respect thereof. Such books and records shall be maintained as reasonably necessary to facilitate compliance with the tax reporting requirements of the Claimant Trust and the requirements of Article VII herein. Except as otherwise provided herein, nothing in this Agreement requires the Claimant Trustee to file any

accounting or seek approval of any court with respect to the administration of the Claimant Trust, or as a condition for managing any payment or distribution out of the Claimant Trust Assets.

(b) The Claimant Trustee shall provide quarterly reporting to the Oversight Board and Claimant Trust Beneficiaries of (i) the status of the Claimant Trust Assets, (ii) the balance of Cash held by the Claimant Trust (including in each of the Claimant Trust Expense Reserve and Disputed Claim Reserve), (iii) the determination and any re-determination, as applicable, of the total amount allocated to the Disputed Claim Reserve, (iv) the status of Disputed Claims and any resolutions thereof, (v) the status of any litigation, including the pursuit of the Causes of Action, (vi) the Reorganized Debtor's performance, and (vii) operating expenses; provided, however, that the Claimant Trustee may, with respect to any Member of the Oversight Board or Claimant Trust Beneficiary, redact any portion of such reports that relate to such Entity's Claim or Equity Interest, as applicable and any reporting provided to Claimant Trust Beneficiaries may be subject to such Claimant Trust Beneficiary's agreement to maintain confidentiality with respect to any non-public information.

(c) The Claimant Trustee may dispose some or all of the books and records maintained by the Claimant Trustee at the later of (i) such time as the Claimant Trustee determines, with the unanimous consent of the Oversight Board, that the continued possession or maintenance of such books and records is no longer necessary for the benefit of the Claimant Trust, or (ii) upon the termination and winding up of the Claimant Trust under Article IX of this Agreement; provided, however, the Claimant Trustee shall not dispose of any books and records related to the Estate Claims or Employee Claims without the consent of the Litigation Trustee. Notwithstanding the foregoing, the Claimant Trustee shall cause the Reorganized Debtor and its subsidiaries to retain such books and records, and for such periods, as are required to be retained pursuant to Section 204-2 of the Investment Advisers Act or any other applicable laws, rules, or regulations.

3.13 Compensation and Reimbursement; Engagement of Professionals.

(a) Compensation and Expenses.

(i) Compensation. As compensation for any services rendered by the Claimant Trustee in connection with this Agreement, the Claimant Trustee shall receive compensation of \$150,000 per month (the "Base Salary"). Within the first forty-five days following the Confirmation Date, the Claimant Trustee, on the one hand, and the Committee, if prior to the Effective Date, or the Oversight Board, if on or after the Effective Date, on the other, will negotiate go-forward compensation for the Claimant Trustee which will include (a) the Base Salary, (b) a success fee, and (c) severance.

(ii) Expense Reimbursements. All reasonable out-of-pocket expenses of the Claimant Trustee in the performance of his or her duties hereunder, shall be reimbursed as Claimant Trust Expenses paid by the Claimant Trust.

(b) Professionals.

(i) Engagement of Professionals. The Claimant Trustee shall engage professionals from time to time in conjunction with the services provided hereunder. The Claimant Trustee's engagement of such professionals shall be approved by a majority of the Oversight Board as set forth in Section 3.3(b) hereof.

(ii) Fees and Expenses of Professionals. The Claimant Trustee shall pay the reasonable fees and expenses of any retained professionals as Claimant Trust Expenses.

3.14 Reliance by Claimant Trustee. Except as otherwise provided herein, the Claimant Trustee may rely, and shall be fully protected in acting or refraining from acting, on any resolution, statement, certificate, instrument, opinion, report, notice, request, consent, order or other instrument or document that the Claimant Trustee has no reason to believe to be other than genuine and to have been signed or presented by the proper party or parties or, in the case of facsimiles, to have been sent by the proper party or parties, and the Claimant Trustee may conclusively rely as to the truth of the statements and correctness of the opinions or direction expressed therein. The Claimant Trustee may consult with counsel and other professionals, and any advice of such counsel or other professionals shall constitute full and complete authorization and protection in respect of any action taken or not taken by the Claimant Trustee in accordance therewith. The Claimant Trustee shall have the right at any time to seek instructions from the Bankruptcy Court, or any other court of competent jurisdiction concerning the Claimant Trust Assets, this Agreement, the Plan, or any other document executed in connection therewith, and any such instructions given shall be full and complete authorization in respect of any action taken or not taken by the Claimant Trustee in accordance therewith. The Claimant Trust shall have the right to seek Orders from the Bankruptcy Court as set forth in Article IX of the Plan.

3.15 Commingling of Claimant Trust Assets. The Claimant Trustee shall not commingle any of the Claimant Trust Assets with his or her own property or the property of any other Person.

3.16 Delaware Trustee. The Delaware Trustee shall have the power and authority, and is hereby authorized and empowered, to (i) accept legal process served on the Claimant Trust in the State of Delaware; and (ii) execute any certificates that are required to be executed under the Statutory Trust Act and file such certificates in the office of the Secretary of State of the State of Delaware, and take such action or refrain from taking such action under this Agreement as may be directed in a writing delivered to the Delaware Trustee by the Claimant Trustee; provided, however, that the Delaware Trustee shall not be required to take or to refrain from taking any such action if the Delaware Trustee shall believe, or shall have been advised by counsel, that such performance is likely to involve the Delaware Trustee in personal liability or to result in personal liability to the Delaware Trustee, or is contrary to the terms of this Agreement or of any document contemplated hereby to which the Claimant Trust or the Delaware Trustee is or becomes a party or is otherwise contrary to law. The Parties agree not to instruct the Delaware Trustee to take any action or to refrain from taking any action that is contrary to the terms of this Agreement or of any document contemplated hereby to which the Claimant Trust or the Delaware Trustee is or becomes party or that is otherwise contrary to law. Other than as

expressly provided for in this Agreement, the Delaware Trustee shall have no duty or power to take any action for or on behalf of the Claimant Trust.

ARTICLE IV. **THE OVERSIGHT BOARD**

4.1 Oversight Board Members. The Oversight Board will be comprised of five (5) Members appointed to serve as the board of managers of the Claimant Trust, at least two (2) of which shall be disinterested Members selected by the Creditors' Committee (such disinterested members, the "Disinterested Members"). The initial Members of the Oversight Board will be representatives of Acis, the Redeemer Committee, Meta-e Discovery, UBS, and David Pauker. David Pauker and Paul McVoy, the representative of Meta-e Discovery, shall serve as the initial Disinterested Board Members; provided, however, that if the Plan is confirmed with the Convenience Class or any other convenience class supported by the Creditors' Committee, Meta-E Discovery and its representative will resign on the Effective Date or as soon as practicable thereafter and be replaced in accordance with Section 4.10 hereof..

4.2 Authority and Responsibilities.

(a) The Oversight Board shall, as and when requested by either of the Claimant Trustee and Litigation Trustee, or when the Members otherwise deem it to be appropriate or as is otherwise required under the Plan, the Confirmation Order, or this Agreement, consult with and advise the Claimant Trustee and Litigation Trustee as to the administration and management of the Claimant Trust and the Litigation Sub-Trust, as applicable, in accordance with the Plan, the Confirmation Order, this Agreement, and Litigation Sub-Trust Agreement (as applicable) and shall have the other responsibilities and powers as set forth herein. As set forth in the Plan, the Confirmation Order, and herein, the Oversight Board shall have the authority and responsibility to oversee, review, and govern the activities of the Claimant Trust, including the Litigation Sub-Trust, and the performance of the Claimant Trustee and Litigation Trustee, and shall have the authority to remove the Claimant Trustee in accordance with Section 3.7 hereof or the Litigation Trustee in accordance with the terms of the Litigation Sub-Trust Agreement; provided, however, that the Oversight Board may not direct either Claimant Trustee and Litigation Trustee to act inconsistently with their respective duties under this Agreement (including without limitation as set in Section 4.2(e) below), the Litigation Sub-Trust Agreement, the Plan, the Confirmation Order, or applicable law.

(b) The Oversight Board shall also (i) monitor and oversee the administration of the Claimant Trust and the Claimant Trustee's performance of his or her responsibilities under this Agreement, (ii) as more fully set forth in the Litigation Sub-Trust Agreement, approve funding to the Litigation Sub-Trust, monitor and oversee the administration of the Litigation Sub-Trust and the Litigation Trustee's performance of his responsibilities under the Litigation Sub-Trust Agreement, and (iii) perform such other tasks as are set forth herein, in the Litigation Sub-Trust Agreement, and in the Plan.

(c) The Claimant Trustee shall consult with and provide information to the Oversight Board in accordance with and pursuant to the terms of the Plan, the Confirmation Order, and this Agreement to enable the Oversight Board to meet its obligations hereunder.

(d) Notwithstanding any provision of this Agreement to the contrary, the Claimant Trustee shall not be required to (i) obtain the approval of any action by the Oversight Board to the extent that the Claimant Trustee, in good faith, reasonably determines, based on the advice of legal counsel, that such action is required to be taken by applicable law, the Plan, the Confirmation Order, or this Agreement or (ii) follow the directions of the Oversight Board to take any action the extent that the Claimant Trustee, in good faith, reasonably determines, based on the advice of legal counsel, that such action is prohibited by applicable law the Plan, the Confirmation Order, or this Agreement.

(e) Notwithstanding provision of this Agreement to the contrary, with respect to the activities of the Reorganized Debtor in its capacity as an investment adviser (and subsidiaries of the Reorganized Debtor that serve as general partner or in an equivalent capacity) to any Managed Funds, the Oversight Board shall not make investment decisions or otherwise participate in the investment decision making process relating to any such Managed Funds, nor shall the Oversight Board or any member thereof serve as a fiduciary to any such Managed Funds. It is agreed and understood that investment decisions made by the Reorganized Debtor (or its subsidiary entities) with respect to Managed Funds shall be made by the Claimant Trustee in his capacity as an officer of the Reorganized Debtor and New GP LLC and/or such persons who serve as investment personnel of the Reorganized Debtor from time to time, and shall be subject to the fiduciary duties applicable to such entities and persons as investment adviser to such Managed Funds.

4.3 Fiduciary Duties. The Oversight Board (and each Member in its capacity as such) shall have fiduciary duties to the Claimant Trust Beneficiaries consistent with the fiduciary duties that the members of the Creditors' Committee have to unsecured creditors and shall exercise its responsibilities accordingly; provided, however, that the Oversight Board shall not owe fiduciary obligations to any Holders of Class A Limited Partnership Interests or Class B/C Limited Partnership Interests until such Holders become Claimant Trust Beneficiaries in accordance with Section 5.1(c) hereof; provided, further, that the Oversight Board shall not owe fiduciary obligations to a Holder of an Equity Trust Interest if such Holder is named as a defendant in any of the Causes of Action, including Estate Claims, in their capacities as such, it being the intent that the Oversight Board's fiduciary duties are to maximize the value of the Claimant Trust Assets, including the Causes of Action. In all circumstances, the Oversight Board shall act in the best interests of the Claimant Trust Beneficiaries and in furtherance of the purpose of the Claimant Trust. Notwithstanding anything to the contrary contained in this Agreement, the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing.

4.4 Meetings of the Oversight Board. Meetings of the Oversight Board are to be held as necessary to ensure the operation of the Claimant Trust but in no event less often than quarterly. Special meetings of the Oversight Board may be held whenever and wherever called for by the Claimant Trustee or any Member; provided, however, that notice of any such meeting shall be duly given in writing no less than 48 hours prior to such meeting (such notice requirement being subject to any waiver by the Members in the minutes, if any, or other transcript, if any, of proceedings of the Oversight Board). Unless the Oversight Board decides otherwise (which decision shall rest in the reasonable discretion of the Oversight Board), the

Claimant Trustee, and each of the Claimant Trustee's designated advisors may, but are not required to, attend meetings of the Oversight Board.

4.5 Unanimous Written Consent. Any action required or permitted to be taken by the Oversight Board in a meeting may be taken without a meeting if the action is taken by unanimous written consents describing the actions taken, signed by all Members and recorded. If any Member informs the Claimant Trustee (via e-mail or otherwise) that he or she objects to the decision, determination, action, or inaction proposed to be made by unanimous written consent, the Claimant Trustee must use reasonable good faith efforts to schedule a meeting on the issue to be set within 48 hours of the request or as soon thereafter as possible on which all members of the Oversight Board are available in person or by telephone. Such decision, determination, action, or inaction must then be made pursuant to the meeting protocols set forth herein.

4.6 Manner of Acting.

(a) A quorum for the transaction of business at any meeting of the Oversight Board shall consist of at least three Members (including no less than one (1) Disinterested Member); provided that if the transaction of business at a meeting would constitute a direct or indirect conflict of interest for the Redeemer Committee, Acis, and/or UBS, at least two Disinterested Members must be present for there to be a quorum. Except as set forth in Sections 3.3(c), 4.9(a), 5.2, 5.4, 6.1, 9.1, and 10, herein, the majority vote of the Members present at a duly called meeting at which a quorum is present throughout shall be the act of the Oversight Board except as otherwise required by law or as provided in this Agreement. Any or all of the Members may participate in a regular or special meeting by, or conduct the meeting through the use of, conference telephone, video conference, or similar communications equipment by means of which all Persons participating in the meeting may hear each other, in which case any required notice of such meeting may generally describe the arrangements (rather than or in addition of the place) for the holding hereof. Any Member participating in a meeting by this means is deemed to be present in person at the meeting. Voting (including on negative notice) may be conducted by electronic mail or individual communications by the applicable Trustee and each Member.

(b) Any Member who is present and entitled to vote at a meeting of the Oversight Board when action is taken is deemed to have assented to the action taken, subject to the requisite vote of the Oversight Board, unless (i) such Member objects at the beginning of the meeting (or promptly upon his/her arrival) to holding or transacting business at the meeting; (ii) his/her dissent or abstention from the action taken is entered in the minutes of the meeting; or (iii) he/she delivers written notice (including by electronic or facsimile transmission) of his/her dissent or abstention to the Oversight Board before its adjournment. The right of dissent or abstention is not available to any Member of the Oversight Board who votes in favor of the action taken.

(c) Prior to a vote on any matter or issue or the taking of any action with respect to any matter or issue, each Member shall report to the Oversight Board any conflict of interest such Member has or may have with respect to the matter or issue at hand and fully disclose the nature of such conflict or potential conflict (including, without limitation, disclosing any and all financial or other pecuniary interests that such Member may have with respect to or

in connection with such matter or issue, other than solely as a holder of Trust Interests). A Member who, with respect to a matter or issue, has or who may have a conflict of interest whereby such Member's interests are adverse to the interests of the Claimant Trust shall be deemed a "Conflicted Member" who shall not be entitled to vote or take part in any action with respect to such matter or issue. In the event of a Conflicted Member, the vote or action with respect to such matter or issue giving rise to such conflict shall be undertaken only by Members who are not Conflicted Members and, notwithstanding anything contained herein to the contrary, the affirmative vote of only a majority of the Members who are not Conflicted Members shall be required to approve of such matter or issue and the same shall be the act of the Oversight Board.

(d) Each of Acis, the Redeemer Committee, and UBS shall be deemed "Conflicted Members" with respect to any matter or issue related to or otherwise affecting any of their respective Claim(s) (a "Committee Member Claim Matter"). A unanimous vote of the Disinterested Members shall be required to approve of or otherwise take action with respect to any Committee Member Claim Matter and, notwithstanding anything herein to the contrary, the same shall be the act of the Oversight Board.

4.7 Tenure of the Members of the Oversight Board. The authority of the Members of the Oversight Board will be effective as of the Effective Date and will remain and continue in full force and effect until the Claimant Trust is terminated in accordance with Article X hereof. The Members of the Oversight Board will serve until such Member's successor is duly appointed or until such Member's earlier death or resignation pursuant to Section 4.7 below, or removal pursuant to Section 4.8 below.

4.8 Resignation. A Member of the Oversight Board may resign by giving not less than 90 days prior written notice thereof to the Claimant Trustee and other Members. Such resignation shall become effective on the earlier to occur of (i) the day specified in such notice and (ii) the appointment of a successor in accordance with Section 4.9 below.

4.9 Removal. A majority of the Oversight Board may remove any Member for Cause or Disability. If any Committee Member has its Claim disallowed in its entirety the representative of such entity will immediately be removed as a Member without the requirement for a vote and a successor will be appointed in the manner set forth herein. Notwithstanding the foregoing, upon the termination of the Claimant Trust, any or all of the Members shall be deemed to have resigned.

4.10 Appointment of a Successor Member.

(a) In the event of a vacancy on the Oversight Board (whether by removal, death, or resignation), a new Member may be appointed to fill such position by the remaining Members acting unanimously; provided, however, that any vacancy resulting from the removal, resignation, or death of a Disinterested Member may only be filled by a disinterested Person unaffiliated with any Claimant or constituency in the Chapter 11 Case; provided, further, that if an individual serving as the representative of a Committee Member resigns from its role as representative, such resignation shall not be deemed resignation of the Committee Member itself and such Committee Member shall have the exclusive right to designate its replacement representative for the Oversight Board. The appointment of a successor Member will be further

evidenced by the Claimant Trustee's filing with the Bankruptcy Court (to the extent a final decree has not been entered) and posting on the Claimant Trustee's website a notice of appointment, at the direction of the Oversight Board, which notice will include the name, address, and telephone number of the successor Member.

(b) Immediately upon the appointment of any successor Member, the successor Member shall assume all rights, powers, duties, authority, and privileges of a Member hereunder and such rights and privileges will be vested in and undertaken by the successor Member without any further act. A successor Member will not be liable personally for any act or omission of a predecessor Member.

(c) Every successor Member appointed hereunder shall execute, acknowledge, and deliver to the Claimant Trustee and other Members an instrument accepting the appointment under this Agreement and agreeing to be bound thereto, and thereupon the successor Member without any further act, deed, or conveyance, shall become vested with all rights, powers, trusts, and duties of a Member hereunder.

4.11 Compensation and Reimbursement of Expenses. Unless determined by the Oversight Board, no Member shall be entitled to compensation in connection with his or her service to the Oversight Board; provided, however, that a Disinterested Member shall be compensated in a manner and amount initially set by the other Members and as thereafter amended from time to time by agreement between the Oversight Board and the Disinterested Member. Notwithstanding the foregoing, the Claimant Trustee will reimburse the Members for all reasonable and documented out-of-pocket expenses incurred by the Members in connection with the performance of their duties hereunder (which shall not include fees, costs, and expenses of legal counsel).

4.12 Confidentiality. Each Member shall, during the period that such Member serves as a Member under this Agreement and following the termination of this Agreement or following such Member's removal or resignation, hold strictly confidential and not use for personal gain any material, non-public information of or pertaining to any Person to which any of the Claimant Trust Assets relates or of which such Member has become aware in the Member's capacity as a Member ("Confidential Trust Information"), except as otherwise required by law. For the avoidance of doubt, a Member's Affiliates, employer, and employer's Affiliates (and collectively with such Persons' directors, officers, partners, principals and employees, "Member Affiliates") shall not be deemed to have received Confidential Trust Information solely due to the fact that a Member has received Confidential Trust Information in his or her capacity as a Member of the Oversight Board and to the extent that (a) a Member does not disclose any Confidential Trust Information to a Member Affiliate, (b) the business activities of such Member Affiliates are conducted without reference to, and without use of, Confidential Trust Information, and (c) no Member Affiliate is otherwise directed to take, or takes on behalf of a Member or Member Affiliate, any actions that are contrary to the terms of this Section 4.11.

ARTICLE V. **TRUST INTERESTS**

5.1 Claimant Trust Interests.

(a) General Unsecured Claim Trust Interests. On the date hereof, or on the date such Claim becomes Allowed under the Plan, the Claimant Trust shall issue General Unsecured Claim Trust Interests to Holders of Allowed Class 8 General Unsecured Claims (the “GUC Beneficiaries”). The Claimant Trustee shall allocate to each Holder of an Allowed Class 8 General Unsecured Claim a General Unsecured Claim Trust Interest equal to the ratio that the amount of each Holder’s Allowed Class 8 Claim bears to the total amount of the Allowed Class 8 Claims. The General Unsecured Claim Trust Interests shall be entitled to distributions from the Claimant Trust Assets in accordance with the terms of the Plan and this Agreement.

(b) Subordinated Claim Trust Interests. On the date hereof, or on the date such Claim becomes Allowed under the Plan, the Claimant Trust shall issue Subordinated Claim Trust Interests to Holders of Class 9 Subordinated Claims (the “Subordinated Beneficiaries”). The Claimant Trustee shall allocate to each Holder of an Allowed Class 9 Subordinated Claim a Subordinated Claim Trust Interest equal to the ratio that the amount of each Holder’s Allowed Class 9 Claim bears to the total of amount of the Allowed Class 9. The Subordinated Trust Interests shall be subordinated in right and priority to the General Unsecured Claim Trust Interests. The Subordinated Beneficiaries shall only be entitled to distributions from the Claimant Trust Assets after each GUC Beneficiary has been repaid in full with applicable interest on account of such GUC Beneficiary’s Allowed General Unsecured Claim, and all Disputed General Unsecured Claims have been resolved, in accordance with the terms of the Plan and this Agreement.

(c) Contingent Trust Interests. On the date hereof, or on the date such Interest becomes Allowed under the Plan, the Claimant Trust shall issue Contingent Interests to Holders of Allowed Class 10 Class B/C Limited Partnership Interests and Holders of Allowed Class 11 Class A Limited Partnership Interests (collectively, the “Equity Holders”). The Claimant Trustee shall allocate to each Holder of Allowed Class 10 Class B/C Limited Partnership Interests and each Holder of Allowed Class 11 Class A Limited Partnership Interests a Contingent Trust Interest equal to the ratio that the amount of each Holder’s Allowed Class 10 or Class 11 Interest bears to the total amount of the Allowed Class 10 or Class 11 Interests, as applicable, under the Plan. Contingent Trust Interests shall not vest, and the Equity Holders shall not have any rights under this Agreement, unless and until the Claimant Trustee files with the Bankruptcy Court a certification that all GUC Beneficiaries have been paid indefeasibly in full, including, to the extent applicable, all accrued and unpaid post-petition interest consistent with the Plan and all Disputed Claims have been resolved (the “GUC Payment Certification”). Equity Holders will only be deemed “Beneficiaries” under this Agreement upon the filing of a GUC Payment Certification with the Bankruptcy Court, at which time the Contingent Trust Interests will vest and be deemed “Equity Trust Interests.” The Equity Trust Interests shall be subordinated in right and priority to Subordinated Trust Interests, and distributions on account thereof shall only be made if and when Subordinated Beneficiaries have been repaid in full on account of such Subordinated Beneficiary’s Allowed Subordinated Claim, in accordance with the terms of the Plan, the Confirmation Order, and this Agreement. The Equity Trust Interests distributed to Allowed Holders of Class A Limited Partnership Interests shall be subordinated to the Equity Trust Interests distributed to Allowed Holders of Class B/C Limited Partnership Interests.

5.2 Interests Beneficial Only. The ownership of the beneficial interests in the Claimant Trust shall not entitle the Claimant Trust Beneficiaries to any title in or to the Claimant

Trust Assets (which title shall be vested in the Claimant Trust) or to any right to call for a partition or division of the Claimant Trust Assets or to require an accounting. No Claimant Trust Beneficiary shall have any governance right or other right to direct Claimant Trust activities.

5.3 Transferability of Trust Interests. No transfer, assignment, pledge, hypothecation, or other disposition of a Trust Interest may be effected until (i) such action is unanimously approved by the Oversight Board, (ii) the Claimant Trustee and Oversight Board have received such legal advice or other information that they, in their sole and absolute discretion, deem necessary to assure that any such disposition shall not cause the Claimant Trust to be subject to entity-level taxation for U.S. federal income tax purposes, and (iii) either (x) the Claimant Trustee and Oversight Board, acting unanimously, have received such legal advice or other information that they, in their sole and absolute discretion, deem necessary or appropriate to assure that any such disposition shall not (a) require the Claimant Trust to comply with the registration and/or reporting requirements of the Securities Act, the Exchange Act, the TIA, or the Investment Company Act or (b) cause any adverse effect under the Investment Advisers Act, or (y) the Oversight Board, acting unanimously, has determined, in its sole and absolute discretion, to cause the Claimant Trust to become a public reporting company and/or make periodic reports under the Exchange Act (provided that it is not required to register under the Investment Company Act or register its securities under the Securities Act) to enable such disposition to be made. In the event that any such disposition is allowed, the Oversight Board and the Claimant Trustee may add such restrictions upon such disposition and other terms of this Agreement as are deemed necessary or appropriate by the Claimant Trustee, with the advice of counsel, to permit or facilitate such disposition under applicable securities and other laws.

5.4 Registry of Trust Interests.

(a) Registrar. The Claimant Trustee shall appoint a registrar, which may be the Claimant Trustee (the “Registrar”), for the purpose of recording ownership of the Trust Interests as provided herein. The Registrar, if other than the Claimant Trustee, shall be an institution or person acceptable to the Oversight Board. For its services hereunder, the Registrar, unless it is the Claimant Trustee, shall be entitled to receive reasonable compensation from the Claimant Trust as a Claimant Trust Expense.

(b) Trust Register. The Claimant Trustee shall cause to be kept at the office of the Registrar, or at such other place or places as shall be designated by the Registrar from time to time, a registry of the Claimant Trust Beneficiaries and the Equity Holders (the “Trust Register”), which shall be maintained pursuant to such reasonable regulations as the Claimant Trustee and the Registrar may prescribe.

(c) Access to Register by Beneficiaries. The Claimant Trust Beneficiaries and their duly authorized representatives shall have the right, upon reasonable prior written notice to the Claimant Trustee, and in accordance with reasonable regulations prescribed by the Claimant Trustee, to inspect and, at the expense of the Claimant Trust Beneficiary make copies of the Trust Register, in each case for a purpose reasonable and related to such Claimant Trust Beneficiary’s Trust Interest.

5.5 Exemption from Registration. The Parties hereto intend that the rights of the Claimant Trust Beneficiaries arising under this Claimant Trust shall not be “securities” under applicable laws, but none of the Parties represent or warrant that such rights shall not be securities or shall not be entitled to exemption from registration under the applicable securities laws. The Oversight Board, acting unanimously, and Claimant Trustee may amend this Agreement in accordance with Article IX hereof to make such changes as are deemed necessary or appropriate with the advice of counsel, to ensure that the Claimant Trust is not subject to registration and/or reporting requirements of the Securities Act, the Exchange Act, the TIA, or the Investment Company Act. The Trust Interests shall not have consent or voting rights or otherwise confer on the Claimant Trust Beneficiaries any rights similar to the rights of a shareholder of a corporation in respect of any actions taken or to be taken, or decisions made or to be made, by the Oversight Board and/or the Claimant Trustee under this Agreement.

5.6 Absolute Owners. The Claimant Trustee may deem and treat the Claimant Trust Beneficiary of record as determined pursuant to this Article 5 as the absolute owner of such Trust Interests for the purpose of receiving distributions and payment thereon or on account thereof and for all other purposes whatsoever.

5.7 Effect of Death, Incapacity, or Bankruptcy. The death, incapacity, or bankruptcy of any Claimant Trust Beneficiary during the term of the Claimant Trust shall not (i) entitle the representatives or creditors of the deceased Beneficiary to any additional rights under this Agreement, or (ii) otherwise affect the rights and obligations of any of other Claimant Trust Beneficiary under this Agreement.

5.8 Change of Address. Any Claimant Trust Beneficiary may, after the Effective Date, select an alternative distribution address by providing notice to the Claimant Trustee identifying such alternative distribution address. Such notification shall be effective only upon receipt by the Claimant Trustee. Absent actual receipt of such notice by the Claimant Trustee, the Claimant Trustee shall not recognize any such change of distribution address.

5.9 Standing. No Claimant Trust Beneficiary shall have standing to direct the Claimant Trustee to do or not to do any act or to institute any action or proceeding at law or in equity against any party upon or with respect to the Claimant Trust Assets. No Claimant Trust Beneficiary shall have any direct interest in or to any of the Claimant Trust Assets.

5.10 Limitations on Rights of Claimant Trust Beneficiaries.

(a) The Claimant Trust Beneficiaries shall have no rights other than those set forth in this Agreement, the Confirmation Order, or the Plan (including any Plan Supplement documents incorporated therein).

(b) In any action taken by a Claimant Trust Beneficiary against the Claimant Trust, a current or former Trustee, or a current or former Member, in their capacity as such, the prevailing party will be entitled to reimbursement of attorneys’ fees and other costs; provided, however, that any fees and costs shall be borne by the Claimant Trust on behalf of any such Trustee or Member, as set forth herein.

(c) A Claimant Trust Beneficiary who brings any action against the Claimant Trust, a current or former Trustee, or a current or former Member, in their capacity as such, may be required by order of the Bankruptcy Court to post a bond ensuring that the full costs of a legal defense can be reimbursed. A request for such bond can be made by the Claimant Trust or by Claimant Trust Beneficiaries constituting in the aggregate at least 50% of the most senior class of Claimant Trust Interests.

(d) Any action brought by a Claimant Trust Beneficiary must be brought in the United States Bankruptcy Court for the Northern District of Texas. Claimant Trust Beneficiaries are deemed to have waived any right to a trial by jury

(e) The rights of Claimant Trust Beneficiaries to bring any action against the Claimant Trust, a current or former Trustee, or current or former Member, in their capacity as such, shall not survive the final distribution by the Claimant Trust.

ARTICLE VI. **DISTRIBUTIONS**

6.1 Distributions.

(a) Notwithstanding anything to the contrary contained herein, the Claimant Trustee shall distribute to holders of Trust Interests at least annually the Cash on hand net of any amounts that (a) are reasonably necessary to maintain the value of the Claimant Trust Assets pending their monetization or other disposition during the term of the Claimant Trust, (b) are necessary to pay or reserve for reasonably incurred or anticipated Claimant Trust Expenses and any other expenses incurred by the Claimant Trust (including, but not limited to, any taxes imposed on or payable by the Claimant Trustee with respect to the Claimant Trust Assets), (c) are necessary to pay or reserve for the anticipated costs and expenses of the Litigation Sub-Trust, (d) are necessary to satisfy or reserve for other liabilities incurred or anticipated by the Claimant Trustee in accordance with the Plan and this Agreement (including, but not limited to, indemnification obligations and similar expenses in such amounts and for such period of time as the Claimant Trustee determines, in good faith, may be necessary and appropriate, which determination shall not be subject to consent of the Oversight Board, may not be modified without the express written consent of the Claimant Trustee, and shall survive termination of the Claimant Trustee), (e) are necessary to maintain the Disputed Claims Reserve, and (f) are necessary to pay Allowed Claims in Class 1 through Class 7. Notwithstanding anything to the contrary contained in this paragraph, the Claimant Trustee shall exercise reasonable efforts to make initial distributions within six months of the Effective Date, and the Oversight Board may not prevent such initial distributions unless upon a unanimous vote of the Oversight Board. The Claimant Trustee may otherwise distribute all Claimant Trust Assets on behalf of the Claimant Trust in accordance with this Agreement and the Plan at such time or times as the Claimant Trustee is directed by the Oversight Board.

(b) At the request of the Reorganized Debtor, subject in all respects to the provisions of this Agreement, the Claimant Trustee shall distribute Cash to the Reorganized Debtor, as Distribution Agent with respect to Claims in Class 1 through 7, sufficient to satisfy Allowed Claims in Class 1 through Class 7.

(c) All proceeds of Claimant Trust Assets shall be distributed in accordance with the Plan and this Agreement.

6.2 Manner of Payment or Distribution. All distributions made by the Claimant Trustee on behalf of the Claimant Trust to the Claimant Trust Beneficiaries shall be payable by the Claimant Trustee directly to the Claimant Trust Beneficiaries of record as of the twentieth (20th) day prior to the date scheduled for the distribution, unless such day is not a Business Day, then such date or the distribution shall be the following Business Day, but such distribution shall be deemed to have been completed as of the required date.

6.3 Delivery of Distributions. All distributions under this Agreement to any Claimant Trust Beneficiary shall be made, as applicable, at the address of such Claimant Trust Beneficiary (a) as set forth on the Schedules filed with the Bankruptcy Court or (b) on the books and records of the Debtor or their agents, as applicable, unless the Claimant Trustee has been notified in writing of a change of address pursuant to Section 5.6 hereof.

6.4 Disputed Claims Reserves. There will be no distributions under this Agreement or the Plan on account of Disputed Claims pending Allowance. The Claimant Trustee will maintain a Disputed Claims Reserve as set forth in the Plan and will make distributions from the Disputed Claims Reserve as set forth in the Plan.

6.5 Undeliverable Distributions and Unclaimed Property. All undeliverable distributions and unclaimed property shall be treated in the manner set forth in the Plan.

6.6 De Minimis Distributions. Distributions with a value of less than \$100 will be treated in accordance with the Plan.

6.7 United States Claimant Trustee Fees and Reports. **After the Effective Date, the Claimant Trust shall pay as a Claimant Trust Expense, all fees incurred under 28 U.S.C. § 1930(a)(6) by reason of the Claimant Trust's disbursements until the Chapter 11 Case is closed. After the Effective Date, the Claimant Trust shall prepare and serve on the Office of the United States Trustee such quarterly disbursement reports for the Claimant Trust as required by the Office of the United States Trustee Office for as long as the Chapter 11 Case remains open.**

ARTICLE VII. **TAX MATTERS**

7.1 Tax Treatment and Tax Returns.

(a) It is intended for the initial transfer of the Claimant Trust Assets to the Claimant Trust to be treated as a grantor trust for federal income tax purposes (and foreign, state, and local income tax purposes where applicable) as if the Debtor transferred the Claimant Trust Assets (other than the amounts set aside in the Disputed Claim Reserve, if the Claimant Trustee makes the election described below) to the Claimant Trust Beneficiaries and then, immediately thereafter, the Claimant Trust Beneficiaries transferred the Claimant Trust Assets to the Claimant Trust. Consistent with such treatment, (i) it is intended that the Claimant Trust will be treated as a grantor trust for federal income tax purposes (and foreign, state, and local income tax purposes

where applicable), (ii) it is intended that the Claimant Trust Beneficiaries will be treated as the grantors of the Claimant Trust and owners of their respective share of the Claimant Trust Assets for federal income tax purposes (and foreign, state, and local income tax purposes where applicable). The Claimant Trustee shall file all federal income tax returns (and foreign, state, and local income tax returns where applicable) for the Claimant Trust as a grantor trust pursuant to Treasury Regulation Section 1.671-4(a).

(b) The Claimant Trustee shall determine the fair market value of the Claimant Trust Assets as of the Effective Date and notify the applicable Beneficiaries of such valuation, and such valuation shall be used consistently by all parties for all federal income tax purposes.

(c) The Claimant Trustee may file an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claim Reserve as a separate taxable entity.

7.2 Withholding. The Claimant Trustee may withhold from any amount distributed from the Claimant Trust to any Claimant Trust Beneficiary such sum or sums as are required to be withheld under the income tax laws of the United States or of any state or political subdivision thereof. Any amounts withheld pursuant hereto shall be deemed to have been distributed to and received by the applicable Beneficiary. As a condition to receiving any distribution from the Claimant Trust, the Claimant Trustee may require that the Beneficiary provide such holder's taxpayer identification number and such other information and certification as may be deemed necessary for the Claimant Trustee to comply with applicable tax reporting and withholding laws. If a Beneficiary fails to comply with such a request within one year, such distribution shall be deemed an unclaimed distribution and treated in accordance with Section 6.5(b) of this Agreement.

ARTICLE VIII. **STANDARD OF CARE AND INDEMNIFICATION**

8.1 Standard of Care. None of the Claimant Trustee, acting in his capacity as the Claimant Trustee or in any other capacity contemplated by this Agreement or the Plan, the Delaware Trustee, acting in its capacity as Delaware Trustee, the Oversight Board, or any current or any individual Member, solely in their capacity as Members of the Oversight Board, shall be personally liable to the Claimant Trust or to any Person (including any Claimant Trust Beneficiary) in connection with the affairs of the Claimant Trust, unless it is ultimately determined by order of the Bankruptcy Court or, if the Bankruptcy Court either declines to exercise jurisdiction over such action, or cannot exercise jurisdiction over such action, such other court of competent jurisdiction that the acts or omissions of any such Claimant Trustee, Delaware Trustee, Oversight Board, or Member constituted fraud, willful misconduct, or gross negligence. The employees, agents and professionals retained by the Claimant Trust, the Claimant Trustee, Delaware Trustee, Oversight Board, or individual Member shall not be personally liable to the Claimant Trust or any other Person in connection with the affairs of the Claimant Trust, unless it is ultimately determined by order of the Bankruptcy Court or, if the Bankruptcy Court either declines to exercise jurisdiction over such action, or cannot exercise

jurisdiction over such action, such other court of competent jurisdiction that such acts or omissions by such employee, agent, or professional constituted willful fraud, willful misconduct or gross negligence. None of the Claimant Trustee, Delaware Trustee, Oversight Board, or any Member shall be personally liable to the Claimant Trust or to any Person for the acts or omissions of any employee, agent or professional of the Claimant Trust or Claimant Trustee taken or not taken in good faith reliance on the advice of professionals or, as applicable, with the approval of the Bankruptcy Court, unless it is ultimately determined by order of the Bankruptcy Court or, if the Bankruptcy Court either declines to exercise jurisdiction over such action, or cannot exercise jurisdiction over such action, such other court of competent jurisdiction that the Claimant Trustee, Delaware Trustee, Oversight Board, or Member acted with gross negligence or willful misconduct in the selection, retention, or supervision of such employee, agent or professional of the Claimant Trust.

8.2 Indemnification. The Claimant Trustee (including each former Claimant Trustee), Delaware Trustee, Oversight Board, and all past and present Members (collectively, in their capacities as such, the “Indemnified Parties”) shall be indemnified by the Claimant Trust against and held harmless by the Claimant Trust from any losses, claims, damages, liabilities or expenses (including, without limitation, attorneys’ fees, disbursements, and related expenses) to which the Indemnified Parties may become subject in connection with any action, suit, proceeding or investigation brought or threatened against any of the Indemnified Parties in their capacity as Claimant Trustee, Delaware Trustee, Oversight Board, or Member, or in connection with any matter arising out of or related to the Plan, this Agreement, or the affairs of the Claimant Trust, unless it is ultimately determined by order of the Bankruptcy Court or other court of competent jurisdiction that the Indemnified Party’s acts or omissions constituted willful fraud, willful misconduct, or gross negligence. If the Indemnified Party becomes involved in any action, proceeding, or investigation in connection with any matter arising out of or in connection with the Plan, this Agreement or the affairs of the Claimant Trust for which an indemnification obligation could arise, the Indemnified Party shall promptly notify the Claimant Trustee and/or Oversight Board, as applicable; provided, however, that the failure of an Indemnified Party to promptly notify the Claimant Trustee and/or Oversight Board of an indemnification obligation will not excuse the Claimant Trust from indemnifying the Indemnified Party unless such delay has caused the Claimant Trust material harm. The Claimant Trust shall pay, advance or otherwise reimburse on demand of an Indemnified Party the Indemnified Party’s reasonable legal and other defense expenses (including, without limitation, the cost of any investigation and preparation and attorney fees, disbursements, and other expenses related to any claim that has been brought or threatened to be brought) incurred in connection therewith or in connection with enforcing his or her rights under this Section 8.2 as a Claimant Trust Expense, and the Claimant Trust shall not refuse to make any payments to the Indemnified Party on the assertion that the Indemnified Party engaged in willful misconduct or acted in bad faith; provided that the Indemnified Party shall be required to repay promptly to the Claimant Trust the amount of any such advanced or reimbursed expenses paid to the Indemnified Party to the extent that it shall be ultimately determined by Final Order that the Indemnified Party engaged in willful fraud, misconduct, or negligence in connection with the affairs of the Claimant Trust with respect to which such expenses were paid; provided, further, that any such repayment obligation shall be unsecured and interest free. The Claimant Trust shall indemnify and hold harmless the employees, agents and professionals of the Claimant Trust and Indemnified Parties to the same extent as provided in this Section 8.2 for the Indemnified Parties.

For the avoidance of doubt, the provisions of this Section 8.2 shall remain available to any former Claimant Trustee, Delaware Trustee, or Member or the estate of any decedent Claimant Trustee or Member, solely in their capacities as such. The indemnification provided hereby shall be a Claimant Trust Expense and shall not be deemed exclusive of any other rights to which the Indemnified Party may now or in the future be entitled to under the Plan or any applicable insurance policy. The failure of the Claimant Trust to pay or reimburse an Indemnified Party as required under this Section 8.2 shall constitute irreparable harm to the Indemnified Party and such Indemnified Party shall be entitled to specific performance of the obligations herein.

8.3 No Personal Liability. Except as otherwise provided herein, neither of the Trustees nor Members of the Oversight Board shall be subject to any personal liability whatsoever, whether in tort, contract, or otherwise, to any Person in connection with the affairs of the Claimant Trust to the fullest extent provided under Section 3803 of the Delaware Statutory Trust Act, and all Persons asserting claims against the Claimant Trustee, Litigation Trustee, or any Members, or otherwise asserting claims of any nature in connection with the affairs of the Claimant Trust, shall look solely to the Claimant Trust Assets for satisfaction of any such claims.

8.4 Other Protections. To the extent applicable and not otherwise addressed herein, the provisions and protections set forth in Article IX of the Plan will apply to the Claimant Trust, the Claimant Trustee, the Litigation Trustee, and the Members.

ARTICLE IX. **TERMINATION**

9.1 Duration. The Trustees, the Claimant Trust, and the Oversight Board shall be discharged or dissolved, as the case may be, at such time as: (a) the Litigation Trustee determines that the pursuit of Estate Claims is not likely to yield sufficient additional proceeds to justify further pursuit of such Estate Claims, (b) the Claimant Trustee determines that the pursuit of Causes of Action (other than Estate Claims) is not likely to yield sufficient additional proceeds to justify further pursuit of such Causes of Action, (c) the Claimant Trustee determines that the pursuit of sales of other Claimant Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit of such sales of Claimant Trust Assets, (d) all objections to Disputed Claims and Equity Interests are fully resolved, (e) the Reorganized Debtor is dissolved, and (f) all Distributions required to be made by the Claimant Trustee to the Claimant Trust Beneficiaries under the Plan have been made, but in no event shall the Claimant Trust be dissolved later than three years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions) is necessary to facilitate or complete the recovery on, and liquidation of, the Claimant Trust Assets.

9.2 Distributions in Kind. Upon dissolution of the Claimant Trust, any remaining Claimant Trust Assets that exceed the amounts required to be paid under the Plan will be transferred (in the sole discretion of the Claimant Trustee) in Cash or in-kind to the Holders of the Claimant Trust Interests as provided in the Claimant Trust Agreement.

9.3 Continuance of the Claimant Trustee for Winding Up. After dissolution of the Claimant Trust and for purpose of liquidating and winding up the affairs of the Claimant Trust, the Claimant Trustee shall continue to act as such until the Claimant Trustee's duties have been fully performed. Prior to the final distribution of all remaining Claimant Trust Assets, the Claimant Trustee shall be entitled to reserve from such assets any and all amounts required to provide for the Claimant Trustee's own costs and expenses, including a reserve to fund any potential indemnification or similar obligations of the Claimant Trust, until such time as the winding up of the Claimant Trust is completed. Upon the dissolution of the Claimant Trust and completion of the winding up of the assets, liabilities and affairs of the Claimant Trust pursuant to the Delaware Statutory Trust Act, the Claimant Trustee shall file a certificate of cancellation with the State of Delaware to terminate the Claimant Trust pursuant to Section 3810 of the Delaware Statutory Trust Act (such date upon which the certificate of cancellation is filed shall be referred to as the "Termination Date"). Upon the Termination date, the Claimant Trustee shall retain for a period of two (2) years, as a Claimant Trust Expense, the books, records, Claimant Trust Beneficiary lists, and certificated and other documents and files that have been delivered to or created by the Claimant Trustee. At the Claimant Trustee's discretion, all of such records and documents may, but need not, be destroyed at any time after two (2) years from the Termination Date.

9.4 Termination of Duties. Except as otherwise specifically provided herein, upon the Termination Date of the Claimant Trust, the Claimant Trustee, the Oversight Board and its Members shall have no further duties or obligations hereunder.

9.5 No Survival. The rights of Claimant Trust Beneficiaries hereunder shall not survive the Termination Date, provided that such Claimant Trust Beneficiaries are provided with notice of such Termination Date.

ARTICLE X. **AMENDMENTS AND WAIVER**

The Claimant Trustee, with the consent of a simple majority of the Oversight Board, may amend this Agreement to correct or clarify any non-material provisions. This Agreement may not otherwise be amended, supplemented, otherwise modified, or waived in any respect except by an instrument in writing signed by the Claimant Trustee and with the unanimous approval of the Oversight Board, and the approval of the Bankruptcy Court, after notice and a hearing; provided that the Claimant Trustee must provide the Oversight Board with prior written notice of any non-material amendments, supplements, modifications, or waivers of this Agreement.

ARTICLE XI. **MISCELLANEOUS**

11.1 Trust Irrevocable. Except as set forth in this Agreement, establishment of the Claimant Trust by this Agreement shall be irrevocable and shall not be subject to revocation, cancellation or rescission by the Claimant Trust Beneficiaries.

11.2 Bankruptcy of Claimant Trust Beneficiaries. The dissolution, termination, bankruptcy, insolvency or other similar incapacity of any Claimant Trust Beneficiary shall not

permit any creditor, trustee, or any other Claimant Trust Beneficiary to obtain possession of, or exercise legal or equitable remedies with respect to, the Claimant Trust Assets.

11.3 Claimant Trust Beneficiaries have No Legal Title to Claimant Trust Assets. No Claimant Trust Beneficiary shall have legal title to any part of the Claimant Trust Assets.

11.4 Agreement for Benefit of Parties Only. Nothing herein, whether expressed or implied, shall be construed to give any Person other than the Claimant Trustee, Oversight Board, and the Claimant Trust Beneficiaries any legal or equitable right, remedy or claim under or in respect of this Agreement. The Claimant Trust Assets shall be held for the sole and exclusive benefit of the Claimant Trust Beneficiaries.

11.5 Notices. All notices, directions, instructions, confirmations, consents and requests required or permitted by the terms hereof shall, unless otherwise specifically provided herein, be in writing and shall be sent by first class mail, facsimile, overnight mail or in the case of mailing to a non-United States address, air mail, postage prepaid, addressed to:

(a) If to the Claimant Trustee:

Claimant Trustee
c/o **[insert contact info for Claimant Trustee]**

With a copy to:

Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd, 13th Floor
Los Angeles, CA 90067
Attn: Jeffrey Pomerantz (jpomerantz@pszjlaw.com)
Ira Kharasch (ikharasch@pszjlaw.com)
Gregory Demo (gdemo@pszjlaw.com)

Notice mailed shall be effective on the date mailed or sent. Any Person may change the address at which it is to receive notices under this Agreement by furnishing written notice pursuant to the provisions of this Section 11.5 to the entity to be charged with knowledge of such change.

11.6 Severability. Any provision hereof which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in another jurisdiction.

11.7 Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

11.8 Binding Effect, etc. All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the Claimant Trust, the Claimant Trustee, and the

Claimant Trust Beneficiaries, and their respective successors and assigns. Any notice, direction, consent, waiver or other instrument or action by any Claimant Trust Beneficiary shall bind its successors and assigns.

11.9 Headings; References. The headings of the various Sections herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

11.10 Governing Law. This Agreement shall in all respects be governed by, and construed in accordance with the laws of the State of Delaware, including all matters of constructions, validity and performance.

11.11 Consent to Jurisdiction. Each of the parties hereto, each Member (solely in their capacity as Members of the Oversight Board), and each Claimant Trust Beneficiary consents and submits to the exclusive jurisdiction of the Bankruptcy Court for any action or proceeding instituted for the enforcement and construction of any right, remedy, obligation, or liability arising under or by reason of this Agreement, the Plan or any act or omission of the Claimant Trustee (acting in his capacity as the Claimant Trustee or in any other capacity contemplated by this Agreement or the Plan), Litigation Trustee (acting in his capacity as the Litigation Trustee or in any other capacity contemplated by this Agreement or the Plan), the Oversight Board. or any individual Member (solely in their capacity as Members of the Oversight Board); *provided, however,* that if the Bankruptcy Court either declines to exercise jurisdiction over such action or cannot exercise jurisdiction over such action, such action may be brought in the state or federal courts located in the Northern District of Texas.

11.12 Transferee Liabilities. The Claimant Trust shall have no liability for, and the Claimant Trust Assets shall not be subject to, any claim arising by, through or under the Debtor except as expressly set forth in the Plan or in this Agreement. In no event shall the Claimant Trustee or the Claimant Trust Beneficiaries have any personal liability for such claims. If any liability shall be asserted against the Claimant Trust or the Claimant Trustee as the transferee of the Claimant Trust Assets on account of any claimed liability of, through or under the Debtor or Reorganized Debtor, the Claimant Trustee may use such part of the Claimant Trust Assets as may be necessary to contest any such claimed liability and to pay, compromise, settle or discharge same on terms reasonably satisfactory to the Claimant Trustee as a Claimant Trust Expense.

[Remainder of Page Intentionally Blank]

IN WITNESS HEREOF, the parties hereto have caused this Claimant Trust Agreement to be duly executed by their respective officers thereunto duly authorized on the day and year first written above.

Highland Capital Management, L.P.

By: _____
James P. Seery, Jr.
Chief Executive Officer and
Chief Restructuring Officer

Claimant Trustee

By: _____
James P. Seery, Jr., not individually but
solely in his capacity as the Claimant Trustee

EXHIBIT 3

Litigation Sub-Trust Agreement

LITIGATION SUB-TRUST AGREEMENT

This Litigation Sub-Trust Agreement, effective as of _____, 2021 (as may be amended, supplemented, or otherwise modified in accordance with the terms hereof, this “Agreement”), by and among James P. Seery, Jr., as trustee of the Highland Claimant Trust (the “Claimant Trustee”), [____] as Delaware Trustee, and Marc S. Kirschner as trustee (the “Litigation Trustee,” and together with the Claimant Trustee and Delaware Trustee, the “Parties”) of the Litigation Sub-Trust for the benefit of the Claimant Trust as sole Litigation Sub-Trust Beneficiary.

RECITALS

WHEREAS, on October 16, 2019, Highland Capital Management, L.P. (the “Debtor”) filed with the United States Bankruptcy Court for the District of Delaware, a voluntary petition for relief under chapter 11 of the Bankruptcy Code, which case was subsequently transferred to the Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”) and captioned *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj11 (the “Chapter 11 Case”);

WHEREAS, on November 24, 2020, the Debtor filed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1472] (as may be amended, supplemented, or otherwise modified from time to time, the “Plan”),¹ which was confirmed by the Bankruptcy Court on _____, 2021, pursuant to the Findings of Fact and Order Confirming Plan of Reorganization for the Debtor [Docket No. •] (the “Confirmation Order”);

WHEREAS, this Agreement, including all exhibits hereto, is the “Litigation Sub-Trust Agreement” described in the Plan and shall be executed on or before the Effective Date in order to facilitate implementation of the Plan; and

WHEREAS, pursuant to the Plan and Confirmation Order, the Litigation Sub-Trust Assets are hereby to be transferred by the Claimant Trust to the Litigation Sub-Trust (each as defined herein) created and evidenced by this Agreement so that (i) Estate Claims can be investigated, prosecuted, settled, abandoned, resolved, and otherwise monetized as may be determined by the Litigation Trustee in accordance with the terms of the Litigation Sub-Trust Agreement; (ii) proceeds of Estate Claims can be remitted to the Claimant Trust as Claimant Trust Assets for distribution to the Claimant Trust Beneficiaries (as defined in the Claimant Trust Agreement) in accordance with the Plan and Claimant Trust Agreement; (iii) the Litigation Trustee can investigate, litigate, settle, or otherwise resolve any Filed Claims relating to the Estate Claims, including the Employee Claims; and (iv) administrative services relating to the activities of the Litigation Sub-Trust can be performed by the Litigation Trustee.

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan.

DECLARATION OF TRUST

NOW, THEREFORE, in order to declare the terms and conditions hereof, and in consideration of the premises and mutual agreements herein contained, the confirmation of the Plan and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Litigation Trustee and the Claimant Trustee have executed this Agreement for the benefit of the Claimant Trust as provided for in the Plan.

TO HAVE AND TO HOLD unto the Litigation Trustee and his successors or assigns in trust, under and subject to the terms and conditions set forth herein and for the benefit of the Claimant Trust, and for the performance of and compliance with the terms hereof and of the Plan; provided, however, that upon termination of the Litigation Sub-Trust in accordance with Article IX hereof, this Litigation Trust Agreement shall cease, terminate, and be of no further force and effect, unless otherwise specifically provided for herein.

IT IS FURTHER COVENANTED AND DECLARED that the Litigation Sub-Trust Assets are to be strictly held and applied by the Litigation Trustee subject to the specific terms set forth below.

ARTICLE I. **DEFINITION AND TERMS**

1.1 Certain Definitions. Unless the context shall otherwise require and except as contained in this Section 1.1 or as otherwise defined herein, the capitalized terms used herein shall have the respective meanings assigned thereto in the “Definitions,” Section 1.1 of the Plan or if not defined therein, shall have the meanings assigned thereto in the applicable Section of the Plan. For all purposes of this Agreement, the following terms shall have the following meanings:

- (a) “Bankruptcy Court” has the meaning set forth in the Recitals hereof.
- (b) “Cause” means (i) a Person’s willful failure to perform his material duties hereunder (which material duties shall include, without limitation, regular attendance at regularly scheduled meetings of the Oversight Board), which is not remedied within 30 days of notice; (ii) a Person’s commission of an act of fraud, theft, or embezzlement during the performance of his or her duties hereunder; (iii) a Person’s conviction of a felony with all appeals having been exhausted or appeal periods lapsed; or (iv) a Person’s gross negligence, bad faith, willful misconduct, or knowing violation of law in the performance of his or her duties hereunder.
- (c) “Claimant Trust Agreement” means the Claimant Trust Agreement dated [____], 2021, by and between the Debtor, Claimant Trustee, and Delaware Trustee.
- (d) “Claimant Trustee” means James P. Seery, Jr., as the initial “Claimant Trustee” under the Claimant Trust Agreement and as defined in the Plan, and any successor Claimant Trustee who may be appointed pursuant to the terms of the Claimant Trust Agreement.

(e) “Claimant Trust” means the “Highland Claimant Trust” established in accordance with the Delaware Statutory Trust Act and Treasury Regulation Section 301.7701-4(d) pursuant to the Claimant Trust Agreement.

(f) “Delaware Statutory Trust Act” means the Delaware Statutory Trust Act 12 Del C. §3801, et seq. as amended from time to time.

(g) “Delaware Trustee” has the meaning set forth in the Claimant Trust Agreement.

(h) “Disability” means as a result of the Litigation Trustee’s incapacity due to physical or mental illness as determined by an accredited physician or psychologist, as applicable, selected by the Litigation Trustee, the Litigation Trustee has been substantially unable to perform his or her duties hereunder for three (3) consecutive months or for an aggregate of 180 days during any period of twelve (12) consecutive months.

(i) “Estate Claims” has the meaning given to it in Exhibit A to the *Notice of Final Term Sheet* [Docket No. 354].

(j) “Employee” means the employees of the Debtor set forth in the Plan Supplement.

(k) “Employee Claims” means any General Unsecured Claim held by an Employee other than the Claims of the Senior Employees subject to stipulations (provided such stipulations are executed by any such Senior Employee of the Debtor prior to the Effective Date).

(l) “Litigation Sub-Trust” means the sub-trust created pursuant to this Agreement, and in accordance with the Delaware Statutory Trust Act and Treasury Regulation Section 301.7701-4(d).

(m) “Litigation Sub-Trust Agreement” means this Agreement.

(n) “Litigation Sub-Trust Assets” means the Estate Claims and the Litigation Sub-Trust Expense Cash Reserve.

(o) “Litigation Sub-Trust Beneficiary” means the Claimant Trust.

(p) “Litigation Sub-Trust Expenses” means the costs, expenses, liabilities and obligations incurred by the Litigation Sub-Trust and/or the Litigation Trustee in administering and conducting the affairs of the Litigation Sub-Trust, and otherwise carrying out the terms of the Litigation Sub-Trust and the Plan on behalf of the Litigation Sub-Trust, including without any limitation, any taxes owed by the Litigation Sub-Trust, and the fees and expenses of the Litigation Trustee and professional persons retained by the Litigation Sub-Trust or Litigation Trustee in accordance with Article 3.12(b) of this Agreement.

(q) “Litigation Sub-Trust Expense Cash Reserve” means \$[•] million in Cash to be funded by the Debtor or Reorganized Debtor, as applicable, pursuant to the Plan into a bank account of the Litigation Sub-Trust (or of the Claimant Trust for the benefit of the

Litigation Sub-Trust) on or before the Effective Date for the purpose of paying Litigation Sub-Trust Expenses in accordance herewith.

(r) “Litigation Trustee” means Marc S. Kirschner as the initial “Litigation Trustee” hereunder and under the Plan, and any successor Litigation Trustee who may be appointed pursuant to the terms of this Agreement.

(s) “Oversight Board” has the meaning set forth in the Claimant Trust Agreement.

(t) “Plan” has the meaning set forth in the Recitals hereof.

(u) “Privileges” means the Debtor’s rights, title and interests in and to any privilege or immunity attaching to any documents or communications (whether written or oral) associated with any of the Estate Claims or Employee Claims, including, without limitation, to, attorney-client privilege and work-product privilege as defined in Rule 502(g) of the Federal Rules of Evidence; provided, however, that “Privileges” shall not include the work-product privilege of any non-Employee attorney or attorneys that has not been previously shared with the Debtor or any of its employees and the work-product privilege shall remain with the non-Employee attorney or attorneys who created such work product so long as it has not been previously shared with the Debtor or any of its employees, or otherwise waived.

(v) “Securities Act” means the Securities Act of 1933, as amended.

(w) “TIA” means the Trust Indenture Act of 1939, as amended.

(x) “Trust Interests” means the trust interest(s) to be distributed to the Claimant Trust as the sole Litigation Sub-Trust Beneficiary.

(y) “Trust Register” has the meaning given to it in Section 5.3(b) hereof.

1.2 General Construction. As used in this Agreement, the masculine, feminine and neuter genders, and the plural and singular numbers shall be deemed to include the others in all cases where they would apply. “Includes” and “including” are not limiting and “or” is not exclusive. References to “Articles,” “Sections” and other subdivisions, unless referring specifically to the Plan or provisions of the Bankruptcy Code, the Bankruptcy Rules, or other law, statute or regulation, refer to the corresponding Articles, Sections and other subdivisions of this Agreement, and the words “herein,” “hereafter” and words of similar import refer to this Agreement as a whole and not to any particular Article, Section, or subdivision of this Agreement. Amounts expressed in dollars or following the symbol “\$” shall be deemed to be in United States dollars. References to agreements or instruments shall be deemed to refer to such agreements or instruments as the same may be amended, supplemented, or otherwise modified in accordance with the terms thereof.

1.3 Incorporation of the Plan. The Plan is hereby incorporated into this Agreement and made a part hereof by this reference.

ARTICLE II. **ESTABLISHMENT OF THE LITIGATION SUB-TRUST**

2.1 Establishment of Sub-Trust.

(a) The Parties, pursuant to the Plan and the Confirmation Order and in accordance with the applicable provisions of the Bankruptcy Code, hereby establish a statutory trust under the Delaware Statutory Trust Act on behalf of the Claimant Trust as the sole Litigation Sub-Trust Beneficiary, which shall be known as the “Highland Litigation Sub-Trust,” on the terms set forth herein. The Litigation Trustee may use this name in accordance with the terms and conditions set forth herein as the Litigation Trustee sees fit.

(b) The Litigation Trustee shall cause to be executed and filed in the office of the Secretary of State of the State of Delaware the Certificate of Trust and agree to execute, acting solely in his capacity as Litigation Trustee, such certificates as may from time to time be required under the Delaware Statutory Trust Act or any other Delaware law.

2.2 Nature and Purposes of the Litigation Sub-Trust. The Litigation Sub-Trust is organized and established as a trust for the purpose of monetizing the Estate Claims and making distributions to Litigation Sub-Trust Beneficiary in a manner consistent with “liquidating trust” status under Treasury Regulation Section 301.7701-4(d). The Litigation Sub-Trust shall serve as a mechanism for investigating, prosecuting, settling, resolving, and otherwise monetizing all Estate Claims and distributing the proceeds of such Estate Claims to the Claimant Trust in a timely fashion in accordance with the Plan, the Confirmation Order, and this Agreement. The Litigation Sub-Trust and Litigation Trustee shall have and retain any and all rights, defenses, cross-claims and counter-claims held by the Debtor with respect to any Estate Claim as of the Petition Date. Except as otherwise provided herein, the Litigation Sub-Trust shall have the sole responsibility for the pursuit and settlement of the Estate Claims, and, subject to the terms of the Claimant Trust Agreement, the sole power and authority to allow or settle and compromise any Claims related to the Estate Claims, including, without limitation, Employee Claims. For the avoidance of doubt, the Litigation Sub-Trust, pursuant to section 1123(b)(3)(B) of the Bankruptcy Code and applicable state trust law, is appointed as the successor-in-interest to, and representative of, the Debtor and its Estate for the retention, enforcement, settlement, and adjustment of all Estate Claims and Employee Claims (in accordance with the terms of the Claimant Trust Agreement).

2.3 Transfer of Assets and Rights to the Litigation Sub-Trust.

(a) On or as soon as practicable after the Effective Date, the Claimant Trust shall automatically and irrevocably transfer, assign, and deliver, and shall be deemed to have transferred, assigned, and delivered, all Estate Claims, Employee Claims, and Privileges. For purposes of the transfer of documents, the Litigation Sub-Trust is an assignee and successor to the Debtor in respect of the Estate Claims and Employee Claims and shall be treated as such in any review of confidentiality restrictions in requested documents. For the avoidance of doubt, following the Effective Date, the Litigation Trustee shall have the power to waive the Privileges being so assigned and transferred.

(b) Until the Litigation Sub-Trust terminates pursuant to the terms hereof, legal title to the Estate Claims shall be vested at all times in the Litigation Sub-Trust as a separate legal entity, except where applicable law in any jurisdiction requires title to any part of the Estate Claims to be vested in the Litigation Trustee, in which case title shall be deemed to be vested in the Litigation Trustee, solely in his capacity as Litigation Trustee. For purposes of such jurisdictions, the term Litigation Sub-Trust, as used herein, shall be read to mean the Litigation Trustee.

(c) In accordance with section 1123(d) of the Bankruptcy Code, the Litigation Trustee may enforce all rights to commence and pursue, as appropriate, any and all Estate Claims after the Effective Date. No Person or entity may rely on the absence of a specific reference in the Plan to any Estate Claim against them as any indication that the Litigation Trustee will not pursue any and all available Estate Claims or objections against them. Unless any Estate Claim against a Person or Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or an order of the Bankruptcy Court, the Litigation Trustee expressly reserves all Estate Claims for later adjudication, and, therefore, no preclusion doctrine including the doctrine of res judicata, collateral, estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to such Estate Claims upon, after, or as a consequence of the Confirmation Order.

2.4 Principal Office. The principal office of the Litigation Sub-Trust shall be maintained by the Litigation Trustee at the following address: Goldin Associates, a Teneo Company, 350 Fifth Avenue, New York, New York 10118.

2.5 Acceptance. The Litigation Trustee accepts the Litigation Sub-Trust imposed by this Agreement and agrees to observe and perform that Litigation Sub-Trust, on and subject to the terms and conditions set forth herein and in the Plan.

2.6 Further Assurances. The Claimant Trustee and any successors thereof will, upon reasonable request of the Litigation Trustee, execute, acknowledge and deliver such further instruments and do such further acts as may be necessary or proper to transfer to the Litigation Trustee any portion of the Claimant Trust Assets intended to be conveyed hereby and in the Plan in the form and manner provided for hereby and in the Plan and to vest in the Litigation Trustee the powers, instruments or funds in trust hereunder.

2.7 Incidents of Ownership. The Claimant Trust shall be the sole beneficiary of the Litigation Sub-Trust and the Litigation Trustee shall retain only such incidents of ownership as are necessary to undertake the actions and transactions authorized herein.

ARTICLE III. **THE LITIGATION TRUSTEE**

3.1 Role. In furtherance of and consistent with the purpose of the Litigation Sub-Trust, the Plan, and this Agreement, the Litigation Trustee, subject to the terms and conditions contained herein, in the Plan, and in the Confirmation Order, shall serve as Litigation Trustee with respect to the Litigation Sub-Trust Assets for the benefit of the Litigation Sub-Trust Beneficiary and maintain, manage, and take action on behalf of the Litigation Sub-Trust.

3.2 Authority.

(a) In connection with the administration of the Litigation Sub-Trust, in addition to any and all of the powers enumerated elsewhere herein, the Litigation Trustee shall, in an expeditious but orderly manner, investigate, prosecute, settle, and otherwise resolve the Estate Claims. The Litigation Trustee shall have the power and authority and is authorized to perform any and all acts necessary and desirable to accomplish the purposes of this Agreement and the provisions of the Plan and the Confirmation Order relating to the Litigation Sub-Trust, within the bounds of this Agreement, the Plan, the Confirmation Order, and applicable law.

(b) The Litigation Trustee, subject to the limitations set forth in Section 3.3 of this Agreement shall have the right to prosecute, defend, compromise, adjust, arbitrate, abandon, estimate, or otherwise deal with and settle any and all Estate Claims and Employee Claims (in accordance with the terms of the Claimant Trust Agreement). To the extent that any action has been taken to prosecute, defend, compromise, adjust, arbitrate, abandon, or otherwise deal with and settle any such Estate Claims or Employee Claims prior to the Effective Date, on the Effective Date the Litigation Trustee shall be substituted for the Debtor in connection therewith in accordance with Rule 25 of the Federal Rules of Civil Procedure, made applicable by Rule 7025 of the Federal Rules of Bankruptcy Procedure, and the caption with respect to such pending action shall be changed to the following “Marc Kirschner, not individually but solely as Litigation Trustee for the Highland Litigation Sub-Trust, et al. v. [Defendant]”.

(c) Subject in all cases to any limitations contained herein, in the Confirmation Order, or in the Plan, the Litigation Trustee shall have the power and authority to:

(i) hold legal title to any and all rights in or arising from the Litigation Sub-Trust Assets, including, but not limited to, the right to collect any and all money and other property belonging to the Litigation Sub-Trust (including any proceeds of the Litigation Sub-Trust Assets);

(ii) perform the duties, exercise the powers, and asserts the rights of a trustee under sections 1123(b)(3)(B) of the Bankruptcy Code with respect to the Litigation Sub-Trust Assets, including the right to assert claims, defenses, offsets, and privileges;

(iii) subject to any approval of the Oversight Board that may be required under Section 3.3(b), protect and enforce the rights of the Litigation Sub-Trust with respect to any Litigation Sub-Trust Assets by any method deemed appropriate, including, without limitation, by judicial proceeds, or pursuant to any applicable bankruptcy, insolvency, moratorium, or similar law and general principles of equity;

(iv) determine and satisfy any and all liabilities created, incurred, or assumed by the Litigation Sub-Trust;

(v) subject to any approval of the Oversight Board that may be required under Section 3.3(b), investigate, analyze, compromise, adjust, arbitrate, mediate, sue on or defend, prosecute, abandon, dismiss, exercise rights, powers and privileges with respect to or otherwise deal with and settle, in accordance with the terms set forth in this Agreement, all

Estate Claims, Employee Claims, or any other Causes of Action in favor of or against the Litigation Sub-Trust;

(vi) with respect to any Estate Claim, avoid and recover transfers of the Debtor's property as may be permitted by the Bankruptcy Code or applicable state law;

(vii) subject to applicable law, seek the examination of any Entity or Person with respect to the Estate Claims;

(viii) make all payments relating to the Litigation Sub-Trust Assets;

(ix) assess, enforce, release, or waive any privilege or defense on behalf of the Litigation Sub-Trust, the Litigation Sub-Trust Assets, or the Litigation Sub-Trust Beneficiary, if applicable;

(x) prepare, or have prepared, and file, if necessary, with the appropriate taxing authority any and all tax returns, information returns, and other required documents with respect to the Litigation Sub-Trust, and pay taxes properly payable by the Litigation Sub-Trust;

(xi) if not otherwise covered by insurance coverage obtained by the Claimant Trust, obtain reasonable insurance coverage with respect to any liabilities and obligations of the Litigation Trustee, solely in his capacity as such, in the form of fiduciary liability insurance, a directors and officers policy, an errors and omissions policy, or otherwise. The cost of any such insurance shall be a Litigation Sub-Trust Expense and paid by the Litigation Trustee from the Litigation Sub-Trust Expense Reserve;

(xii) without further order of the Bankruptcy Court, but subject to the terms of this Agreement, employ various consultants, third-party service providers, and other professionals, including counsel, tax advisors, consultants, brokers, investment bankers, valuation counselors, and financial advisors, as the Litigation Trustee deems necessary to aid him in fulfilling his obligations under this Agreement; such consultants, third-party service providers, and other professionals shall be retained pursuant to whatever fee arrangement the Litigation Trustee deems appropriate, including contingency fee arrangements and any fees and expenses incurred by such professionals engaged by the Litigation Trustee shall be Litigation Sub-Trust Expenses and paid by the Litigation Trustee from the Litigation Sub-Trust Expense Cash Reserve;

(xiii) to the extent applicable, assert, enforce, release, or waive any Privilege or defense on behalf of the Litigation Sub-Trust (including as to any Privilege that the Debtor held prior to the Effective Date), including to provide any information to insurance carriers that the Litigation Trustee deems necessary to utilize applicable insurance coverage for any Claim or Claims;

(xiv) take all steps and execute all instruments and documents necessary to effectuate the purpose of the Litigation Sub-Trust and the activities contemplated herein and in the Confirmation Order and the Plan, and take all actions necessary to comply with the

Confirmation Order, the Plan, and this Agreement and the obligations thereunder and hereunder; and

(xv) exercise such other powers and authority as may be vested in or assumed by the Litigation Trustee by any Final Order (the foregoing subparagraphs (i)-(xv) being collectively, the “Authorized Acts”).

(d) The Litigation Trustee has the power and authority to act as trustee of the Litigation Sub-Trust and perform the Authorized Acts through the date such Litigation Trustee resigns, is removed, or is otherwise unable to serve for any reason.

(e) Any determinations by the Liquidation Trustee, under the direction of the Oversight Board, with respect to the amount or timing of settlement or other disposition of any Estate Claims settled in accordance with the terms of this Agreement shall be conclusive and binding on the Litigation Sub-Trust Beneficiary and all other parties of interest following the entry of an order of a court of competent jurisdiction approving such settlement or other disposition to the extent required or obtained.

3.3 Limitation of Authority.

(a) Notwithstanding anything herein to the contrary, the Litigation Sub-Trust and the Litigation Trustee shall not (i) be authorized to engage in any trade or business, (ii) take any actions inconsistent with the management of the Estate Claims as required or contemplated by applicable law, the Confirmation Order, the Plan, and this Agreement, or (iii) take any action in contravention of the Confirmation Order, the Plan, or this Agreement.

(b) Notwithstanding anything herein to the contrary, and in no way limiting the terms of the Plan, the Litigation Trustee must receive the consent by vote of a simple majority of the Oversight Board pursuant to the notice and quorum requirements set forth in Section 4.5 of the Claimant Trust Agreement, in order to:

- (i) terminate or extend the term of the Litigation Sub-Trust;
- (ii) commence litigation with respect to any Estate Claims and, if applicable under the terms of the Claimant Trust Agreement, the Employee Claims, including, without limitation, to (x) litigate, resolve, or settle coverage and/or the liability of any insurer under any insurance policy or legal action related thereto, or (y) pursue avoidance, recovery, or similar remedies that may be brought under chapter 5 of the Bankruptcy Code or under similar or related state or federal statutes or common law, including fraudulent transfer law;
- (iii) settle, dispose of, or abandon any Estate Claims (including any counterclaims to the extent such counterclaims are set off against the proceeds of any such Estate Claim);
- (iv) borrow funds as may be necessary to fund litigation or other costs of the Litigation Sub-Trust;

(v) reserve or retain any cash or cash equivalents in the Litigation Sub-Trust Cash Reserve in an amount reasonably necessary to meet claims and contingent liabilities;

(vi) change the compensation of the Litigation Trustee; and

(vii) retain counsel, experts, advisors, or any other professionals.

(c) [Reserved]

3.4 Binding Nature of Actions. All actions taken and determinations made by the Litigation Trustee in accordance with the provisions of this Agreement shall be final and binding upon the Litigation Sub-Trust Beneficiary.

3.5 Term of Service. The Litigation Trustee shall serve as the Litigation Trustee for the duration of the Litigation Sub-Trust, subject to death, resignation or removal.

3.6 Resignation. The Litigation Trustee may resign as trustee of the Litigation Sub-Trust by an instrument in writing delivered to the Bankruptcy Court and Oversight Board at least thirty (30) days before the proposed effective date of resignation. The Litigation Trustee shall continue to serve as Litigation Trustee after delivery of the Litigation Trustee's resignation until the proposed effective date of such resignation, unless the Litigation Trustee and a [simple majority] of the Oversight Board consent to an earlier effective date, which earlier effective date shall be no earlier than the date of appointment of a successor Litigation Trustee in accordance with Section 3.8 hereof becomes effective.

3.7 Removal.

(a) The Litigation Trustee may be removed by a [simple majority] vote of the Oversight Board for Cause, immediately upon notice thereof, or without Cause, upon [60 days'] prior written notice.

(b) To the extent there is any dispute regarding the removal of a Litigation Trustee (including any dispute relating to any compensation or expense reimbursement due under this Agreement) the Bankruptcy Court shall retain jurisdiction to consider and adjudicate such dispute. Notwithstanding the foregoing, the Litigation Trustee will continue to serve as the Litigation Trustee after his removal until the earlier of (i) the time when a successor Litigation Trustee will become effective in accordance with Section 3.8 of this Agreement or (ii) such date as the Bankruptcy Court otherwise orders.

3.8 Appointment of Successor.

(a) Appointment of Successor. In the event of a vacancy by reason of the death, Disability, or removal of the Litigation Trustee, or prospective vacancy by reason of resignation, a successor Litigation Trustee shall be selected by a [simple majority] vote of the Oversight Board. If Members of the Oversight Board are unable to secure a majority vote, the Bankruptcy Court will determine the successor Litigation Trustee on motion of the Members. If a final decree has been entered closing the Chapter 11 Case, the Litigation Trustee may seek to reopen the Chapter 11 Case for the limited purpose of determining the successor Litigation

Trustee, and the costs for such motion and costs related to re-opening the Chapter 11 Case shall be paid by the Litigation Sub-Trust, or the Claimant Trust on behalf of the Litigation Sub-Trust. The successor Litigation Trustee shall be appointed as soon as practicable, but in any event no later than sixty (60) days after the occurrence of the vacancy or, in the case of resignation, on the effective date of the resignation of the then acting Litigation Trustee.

(b) Vesting or Rights in Successor Litigation Trustee. Every successor Litigation Trustee appointed hereunder shall execute, acknowledge, and deliver to the Litigation Sub-Trust, the Claimant Trustee, the exiting Litigation Trustee, the Oversight Board, and file with the Bankruptcy Court, an instrument accepting such appointment subject to the terms and provisions hereof. The successor Litigation Trustee, without any further act, deed, or conveyance shall become vested with all the rights, powers, trusts and duties of the exiting Litigation Trustee except that the successor Litigation Trustee shall not be liable for the acts or omissions of the retiring Litigation Trustee. In no event shall the retiring Litigation Trustee be liable for the acts or omissions of the successor Litigation Trustee.

(c) Interim Litigation Trustee. During any period in which there is a vacancy in the position of Litigation Trustee, the Oversight Board shall appoint one of its Members or the Claimant Trustee to serve as the interim Litigation Trustee (the “Interim Trustee”) until a successor Litigation Trustee is appointed pursuant to Section 3.8(a). The Interim Trustee shall be subject to all the terms and conditions applicable to a Litigation Trustee hereunder. Such Interim Trustee shall not be limited in any manner from exercising any rights or powers as a Member of the Oversight Board or Claimant Trustee, as applicable, merely by such Person’s appointment as Interim Trustee.

3.9 Continuance of Litigation Sub-Trust. The death, resignation, or removal of the Litigation Trustee shall not operate to terminate the Litigation Sub-Trust created by this Agreement or to revoke any existing agency (other than any agency of the Litigation Trustee as the Litigation Trustee) created pursuant to the terms of this Agreement or invalidate any action taken by the Litigation Trustee. In the event of the resignation or removal of the Litigation Trustee, the Litigation Trustee shall promptly (i) execute and deliver, by the effective date of resignation or removal, such documents, instruments, records, and other writings as may be reasonably requested by his successor to effect termination of the exiting Litigation Trustee’s capacity under this Agreement and the conveyance of the Estate Claims then held by the exiting Litigation Trustee to the successor Litigation Trustee; (ii) deliver to the successor Litigation Trustee all non-privileged documents, instruments, records, and other writings relating to the Litigation Sub-Trust as may be in the possession or under the control of the exiting Litigation Trustee, provided, the exiting Litigation Trustee shall have the right to make and retain copies of such documents, instruments, records and other writings delivered to the successor Litigation Trustee and the cost of making such copies shall be a Litigation Sub-Trust Expense to be paid by the Litigation Sub-Trust; and (iii) otherwise assist and cooperate in effecting the assumption of the exiting Litigation Trustee’s obligations and functions by his successor, provided the fees and expenses of such assistance and cooperation shall be paid to the exiting Litigation Trustee by the Litigation Sub-Trust. The exiting Litigation Trustee shall irrevocably appoint the successor Litigation Trustee as his attorney-in-fact and agent with full power of substitution for it and its name, place and stead to do any and all acts that such exiting Litigation Trustee is obligated to perform under this Section 3.9.

3.10 Litigation Trustee as “Estate Representative”. The Litigation Trustee will be the exclusive trustee of the Litigation Sub-Trust Assets, for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code (the “Estate Representative”) with respect to the Estate Claims, with all rights and powers attendant thereto, in addition to all rights and powers granted in the Plan and in this Agreement. The Litigation Trustee will be the successor-in-interest to the Debtor with respect to any action pertaining to the Estate Claims, which was or could have been commenced by the Debtor prior to the Effective Date, except as otherwise provided in the Plan or Confirmation Order. All actions, claims, rights or interests constituting or relating to Estate Claims are preserved and retained and may be enforced by the Litigation Trustee as an Estate Representative.

3.11 Books and Records.

(a) The Litigation Trustee shall maintain, in respect of the Litigation Sub-Trust and the Claimant Trust, books and records pertinent to Estate Claims in its possession and the income of the Litigation Sub-Trust and payment of expenses, liabilities, and claims against or assumed by the Litigation Sub-Trust in such detail and for such period of time as may be necessary to enable it to make full and proper accounting in respect thereof. Such books and records shall be maintained as reasonably necessary to facilitate compliance with the tax reporting requirements of the Litigation Sub-Trust and the requirements of Article VII herein. Except as otherwise provided herein, nothing in this Agreement requires the Litigation Trustee to file any accounting or seek approval of any court with respect to the administration of the Litigation Sub-Trust, or as a condition for managing any payment or distribution out of the Litigation Sub-Trust. Notwithstanding the foregoing, the Litigation Trustee shall retain such books and records, and for such periods, with respect to any Reorganized Debtor Assets as are required to be retained pursuant to Section 204-2 of the Investment Advisers Act or any other applicable laws, rules, or regulations.

(b) The Litigation Trustee may dispose some or all of the books and records maintained by the Litigation Trustee at the later of (i) such time as the Litigation Trustee determines, with the unanimous consent of the Oversight Board, that the continued possession or maintenance of such books and records is no longer necessary for the benefit of the Litigation Sub-Trust, including with respect to the Estate Claims, or (ii) upon the termination and winding up of the Litigation Sub-Trust under Article IX of this Agreement.

3.12 Reports.

(a) Financial and Status Reports. The fiscal year of the Litigation Sub-Trust shall be the calendar year. Within 90 days after the end of each calendar year during the term of the Litigation Sub-Trust, and within 45 days after the end of each calendar quarter during (other than the fourth quarter) the term of the Litigation Sub-Trust and as soon as practicable upon termination of the Litigation Sub-Trust, the Litigation Trustee shall make available upon request to the Oversight Board or Litigation Sub-Trust Beneficiary appearing on its records as of the end of such period or such date of termination, a written report including: (i) unaudited financial statements of the Litigation Sub-Trust for such period, and, if the end of a calendar year, an unaudited report (which may be prepared by an independent certified public accountant

employed by the Litigation Trustee) reflecting the result of such agreed-upon procedures relating to the financial accounting administration of the Litigation Sub-Trust as proposed by the Litigation Trustee; (ii) a summary description of any action taken by the Litigation Sub-Trust that, in the judgment of the Litigation Trustee, materially affects the Litigation Sub-Trust and of which notice has not previously been given to the Oversight Board or Litigation Sub-Trust Beneficiary, provided, that any such description shall not include any privileged or confidential information of the Litigation Trustee; and (iii) a description of the progress of liquidating the Litigation Sub-Trust Assets and making distributions to the Litigation Sub-Trust Beneficiary and any other material information relating to the Litigation Sub-Trust Assets and the administration of the Litigation Sub-Trust deemed appropriate to be disclosed by the Litigation Trustee, which description shall include a written report detailing, among other things, the litigation status of the Estate Claims transferred to the Litigation Sub-Trust, any settlements entered into by the Litigation Sub-Trust with respect to the Estate Claims, the proceeds recovered to date from Estate Claims, and the distributions made by the Litigation Sub-Trust.

(b) Annual Plan and Budget. If instructed by the Oversight Board, the Litigation Trustee shall prepare and submit to the Oversight Board for approval an annual plan and budget in such detail as reasonably requested.

3.13 Compensation and Reimbursement; Engagement of Professionals.

(a) Compensation and Expenses.

(i) Compensation. As compensation for any services rendered by the Litigation Trustee in connection with this Agreement, the Litigation Trustee shall receive initial compensation in a manner and amount as agreed upon by the Committee. Any additional compensation or compensation of a Successor Litigation Trustee shall be determined by the Oversight Board.

(ii) Expense Reimbursements. All reasonable out-of-pocket expenses of the Litigation Trustee in the performance of his or her duties hereunder, shall be reimbursed as Litigation Sub-Trust Expenses paid by the Litigation Sub-Trust.

(b) Professionals.

(i) Engagement of Professionals. The Litigation Trustee shall engage professionals from time to time in conjunction with the services provided hereunder. The Litigation Trustee's engagement of such professionals shall be approved by a majority of the Oversight Board as set forth in Section 3.3(b) hereof.

(ii) Fees and Expenses of Professionals. The Litigation Trustee shall pay the reasonable fees and expenses of any retained professionals as Litigation Sub-Trust Expenses.

3.14 Reliance by Litigation Trustee. Except as otherwise provided herein, the Litigation Trustee may rely, and shall be fully protected in acting or refraining from acting, on any resolution, statement, certificate, instrument, opinion, report, notice, request, consent, order or other instrument or document that the Litigation Trustee has no reason to believe to be other

than genuine and to have been signed or presented by the proper party or parties or, in the case of facsimiles, to have been sent by the proper party or parties, and the Litigation Trustee may conclusively rely as to the truth of the statements and correctness of the opinions or direction expressed therein. The Litigation Trustee may consult with counsel and other professionals, and any advice of such counsel or other professionals shall constitute full and complete authorization and protection in respect of any action taken or not taken by the Litigation Trustee in accordance therewith. The Litigation Trustee shall have the right at any time to seek instructions from the Bankruptcy Court, or any other court of competent jurisdiction concerning Estate Claims, this Agreement, the Plan, or any other document executed in connection therewith, and any such instructions given shall be full and complete authorization in respect of any action taken or not taken by the Litigation Trustee in accordance therewith. The Litigation Sub-Trust shall have the right to seek Orders from the Bankruptcy Court as set forth in Article IX of the Plan.

3.15 Commingling of Litigation Sub-Trust Assets. The Litigation Trustee shall not commingle any of the Litigation Sub-Trust Assets with his or her own property or the property of any other Person.

3.16 [Delaware Trustee. The Delaware Trustee shall have the power and authority, and is hereby authorized and empowered, to (i) accept legal process served on the Litigation Sub-Trust in the State of Delaware; and (ii) execute any certificates that are required to be executed under the Statutory Trust Act and file such certificates in the office of the Secretary of State of the State of Delaware, and take such action or refrain from taking such action under this Agreement as may be directed in a writing delivered to the Delaware Trustee by the Litigation Trustee; provided, however, that the Delaware Trustee shall not be required to take or to refrain from taking any such action if the Delaware Trustee shall believe, or shall have been advised by counsel, that such performance is likely to involve the Delaware Trustee in personal liability or to result in personal liability to the Delaware Trustee, or is contrary to the terms of this Agreement or of any document contemplated hereby to which the Litigation Sub-Trust or the Delaware Trustee is or becomes a party or is otherwise contrary to law. The Parties agree not to instruct the Delaware Trustee to take any action or to refrain from taking any action that is contrary to the terms of this Agreement or of any document contemplated hereby to which the Litigation Sub-Trust or the Delaware Trustee is or becomes party or that is otherwise contrary to law. Other than as expressly provided for in this Agreement, the Delaware Trustee shall have no duty or power to take any action for or on behalf of the Litigation Sub-Trust.]

ARTICLE IV. **THE OVERSIGHT BOARD**

The Oversight Board shall be governed by Article IV of the Claimant Trust Agreement.

ARTICLE V. **TRUST INTERESTS**

5.1 Litigation Sub-Trust Interests. On the date hereof, the Litigation Sub-Trust shall issue Trust Interests to the Claimant Trust as the sole Litigation Sub-Trust Beneficiary. The Litigation Sub-Trust Beneficiary shall be entitled to distributions from the Litigation Sub-Trust Assets in accordance with the terms of the Plan and this Agreement.

5.2 Transferability of Trust Interests. No transfer, assignment, pledge, hypothecation, or other disposition of a Trust Interest may be effected.

5.3 Exemption from Registration. The Parties hereto intend that the rights of the Litigation Sub-Trust Beneficiary arising under this Litigation Sub-Trust shall not be “securities” under applicable laws, but none of the Parties represent or warrant that such rights shall not be securities or shall not be entitled to exemption from registration under the applicable securities laws. The Oversight Board, acting unanimously, and Litigation Trustee may amend this Agreement in accordance with Article IX hereof to make such changes as are deemed necessary or appropriate with the advice of counsel, to ensure that the Litigation Sub-Trust is not subject to registration and/or reporting requirements of the Securities Act, the Exchange Act, the TIA, or the Investment Company Act. The Trust Interests shall not have consent or voting rights or otherwise confer on the Litigation Sub-Trust Beneficiary any rights similar to the rights of a shareholder of a corporation in respect of any actions taken or to be taken, or decisions made or to be made, by the Oversight Board and/or the Litigation Trustee under this Agreement.

ARTICLE VI. **DISTRIBUTIONS**

6.1 Distributions. The Litigation Trustee shall distribute Cash proceeds of the Estate Claims to the Claimant Trust within 30 days of receipt of such Cash proceeds, net of any amounts that (a) are reasonably necessary to maintain the value of the Litigation Sub-Trust Assets pending their monetization or other disposition during the term of the Litigation Sub-Trust, (b) are necessary to pay or reserve for reasonably incurred or anticipated Litigation Sub-Trust Expenses and any other expenses incurred by the Litigation Sub-Trust (including, but not limited to, any taxes imposed on or payable by the Litigation Trustee with respect to the Litigation Sub-Trust Assets), and (c) are necessary to satisfy or reserve for other liabilities incurred or anticipated by the Litigation Trustee in accordance with the Plan and this Agreement (including, but not limited to, indemnification obligations and similar expenses).

6.2 Manner of Payment or Distribution. All distributions made by the Litigation Trustee on behalf of the Litigation Sub-Trust to the Litigation Sub-Trust Beneficiary shall be payable by the Litigation Trustee directly to the Claimant Trust, as sole Litigation Sub-Trust Beneficiary, on the date scheduled for the distribution, unless such day is not a Business Day, then such date or the distribution shall be the following Business Day, but such distribution shall be deemed to have been completed as of the required date.

6.3 Delivery of Distributions. All distributions under this Agreement to the Claimant Trust shall be made pursuant to wire instructions provided by the Claimant Trustee to the Litigation Trustee.

ARTICLE VII. **TAX MATTERS**

7.1 Tax Treatment and Tax Returns. It is intended that the Litigation Sub-Trust will be treated as a grantor trust for federal income tax purposes (and foreign, state, and local income tax purposes where applicable) the sole beneficiary of which is the Claimant Trust. Consistent

with such treatment, it is intended that the transfer of the Litigation Sub Trust Assets from the Claimant Trust to the Litigation Sub Trust will be treated as a non-event for federal income tax purposes (and foreign, state, and local income tax purposes where applicable). Further, because the Claimant Trust is itself intended to be treated as a grantor trust for federal income tax purposes (and foreign, state, and local income tax purposes where applicable), it is intended that the beneficiaries of the Claimant Trust will be treated as the grantor of the Litigation Sub-Trust and owner of the Litigation Sub-Trust Assets for federal income tax purposes (and foreign, state, and local income tax purposes where applicable). The Litigation Trustee shall cooperate with the Claimant Trustee in connection with the preparation and filing of any federal income tax returns (and foreign, state, and local income tax returns where applicable) or information statements relating to the Litigation Sub Trust Assets.

7.2 Withholding. The Litigation Trustee may withhold from any amount distributed from the Litigation Sub-Trust to the Litigation Sub-Trust Beneficiary such sum or sums as are required to be withheld under the income tax laws of the United States or of any state or political subdivision thereof. Any amounts withheld pursuant hereto shall be deemed to have been distributed to and received by the Litigation Sub-Trust Beneficiary. As a condition to receiving any distribution from the Litigation Sub-Trust, the Litigation Trustee may require that the Litigation Sub-Trust Beneficiary provide such holder's taxpayer identification number and such other information and certification as may be deemed necessary for the Litigation Trustee to comply with applicable tax reporting and withholding laws.

ARTICLE VIII.

STANDARD OF CARE AND INDEMNIFICATION

8.1 Standard of Care. None of the Litigation Trustee, acting in his capacity as the Litigation Trustee or in any other capacity contemplated by this Agreement or the Plan, the Oversight Board, or any individual Member, solely in their capacity as Members of the Oversight Board, shall be personally liable to the Litigation Sub-Trust or to any Person (including the Litigation Sub-Trust Beneficiary and Claimant Trust Beneficiaries) in connection with the affairs of the Litigation Sub-Trust, unless it is ultimately determined by order of the Bankruptcy Court or, if the Bankruptcy Court either declines to exercise jurisdiction over such action, or cannot exercise jurisdiction over such action, such other court of competent jurisdiction that the acts or omissions of any such Litigation Trustee, Oversight Board, or Member constituted fraud, willful misconduct, or gross negligence. The employees, agents and professionals retained by the Litigation Sub-Trust, the Litigation Trustee, or Oversight Board shall not be personally liable to the Litigation Sub-Trust or any other Person in connection with the affairs of the Litigation Sub-Trust, unless it is ultimately determined by order of the Bankruptcy Court or, if the Bankruptcy Court either declines to exercise jurisdiction over such action, or cannot exercise jurisdiction over such action, such other court of competent jurisdiction that such acts or omissions by such employee, agent, or professional constituted willful fraud, willful misconduct or gross negligence. None of the Litigation Trustee, Oversight Board, or any Member shall be personally liable to the Litigation Sub-Trust or to any Person for the acts or omissions of any employee, agent or professional of the Litigation Sub-Trust or Litigation Trustee, unless it is ultimately determined by order of the Bankruptcy Court or, if the Bankruptcy Court either declines to exercise jurisdiction over such action, or cannot exercise jurisdiction over such action, such other court of competent jurisdiction that the Litigation

Trustee, Oversight Board, or Member acted with gross negligence or willful misconduct in the selection, retention, or supervision of such employee, agent or professional of the Litigation Sub-Trust.

8.2 Indemnification. The Litigation Trustee (including each former Litigation Trustee), Oversight Board, and all past and present Members (collectively, the “Indemnified Parties”) shall be indemnified by the Litigation Sub-Trust against and held harmless by the Litigation Sub-Trust from any losses, claims, damages, liabilities or expenses (including, without limitation, attorneys’ fees, disbursements, and related expenses) to which the Indemnified Parties may become subject in connection with any action, suit, proceeding or investigation brought or threatened against any of the Indemnified Parties in their capacity as Litigation Trustee, Oversight Board, or Member, or in connection with any matter arising out of or related to the Plan, this Agreement, or the affairs of the Litigation Sub-Trust, unless it is ultimately determined by order of the Bankruptcy Court or other court of competent jurisdiction that the Indemnified Party’s acts or omissions constituted willful fraud, willful misconduct, or gross negligence. If the Indemnified Party becomes involved in any action, proceeding, or investigation in connection with any matter arising out of or in connection with the Plan, this Agreement or the affairs of the Litigation Sub-Trust for which an indemnification obligation could arise, the Indemnified Party shall promptly notify the Litigation Trustee and/or Oversight Board, as applicable; provided, however, that the failure of an Indemnified Party to promptly notify the Litigation Trustee and/or Oversight Board of an indemnification obligation will not excuse the Litigation Sub-Trust from indemnifying the Indemnified Party unless such delay has caused the Litigation Sub-Trust material harm. The Litigation Sub-Trust shall periodically advance or otherwise reimburse on demand the Indemnified Party’s reasonable legal and other expenses (including, without limitation, the cost of any investigation and preparation and attorney fees, disbursements, and related expenses) incurred in connection therewith as a Litigation Sub-Trust Expense, but the Indemnified Party shall be required to repay promptly to the Litigation Sub-Trust the amount of any such advanced or reimbursed expenses paid to the Indemnified Party to the extent that it shall be ultimately determined by Final Order that the Indemnified Party engaged in willful fraud, misconduct, or negligence in connection with the affairs of the Litigation Sub-Trust with respect to which such expenses were paid. The Litigation Sub-Trust shall indemnify and hold harmless the employees, agents and professionals of the Litigation Sub-Trust and Indemnified Parties to the same extent as provided in this Section 8.2 for the Indemnified Parties. For the avoidance of doubt, the provisions of this Section 8.2 shall remain available to any former Litigation Trustee or Member or the estate of any decedent Litigation Trustee or Member. The indemnification provided hereby shall be a Litigation Sub-Trust Expense.

8.3 To the extent applicable, the provisions and protections set forth in Article IX of the Plan will apply to the Litigation Sub-Trust, the Litigation Trustee, Oversight Board, and the Members.

ARTICLE IX. **TERMINATION**

9.1 Duration. The Litigation Trustee, the Litigation Sub-Trust, and the Oversight Board shall be discharged or dissolved, as the case may be, at such time as the Litigation Trustee determines that the Estate Claims is not likely to yield sufficient additional proceeds to justify

further pursuit of such Estate, and all Distributions required to be made by the Litigation Trustee to the Litigation Sub-Trust Beneficiary under the Plan and this Agreement have been made, but in no event shall the Litigation Sub-Trust be dissolved later than [three years] from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions) is necessary to facilitate or complete the recovery on, and liquidation of, the Litigation Sub-Trust Assets.

9.2 Continuance of the Litigation Trustee for Winding Up. After dissolution of the Litigation Sub-Trust and for purpose of liquidating and winding up the affairs of the Litigation Sub-Trust, the Litigation Trustee shall continue to act as such until the Litigation Trustee's duties have been fully performed. Prior to the final distribution of all remaining Litigation Sub-Trust Assets, the Litigation Trustee shall be entitled to reserve from such assets any and all amounts required to provide for the Litigation Trustee's own costs and expenses, including a reserve to fund any potential indemnification or similar obligations of the Litigation Sub-Trust, until such time as the winding up of the Litigation Sub-Trust is completed. Upon the dissolution of the Litigation Sub-Trust and completion of the winding up of the assets, liabilities and affairs of the Litigation Sub-Trust pursuant to the Delaware Statutory Trust Act, the Litigation Trustee shall file a certificate of cancellation with the State of Delaware to terminate the Litigation Sub-Trust pursuant to Section 3810 of the Delaware Statutory Trust Act (such date upon which the certificate of cancellation is filed shall be referred to as the "Termination Date"). Subject in all respects to 3.11, upon the Termination date, the Litigation Trustee shall retain for a period of two (2) years, as a Litigation Sub-Trust Expense, the books, records, and certificated and other documents and files that have been delivered to or created by the Litigation Trustee. Subject in all respects to Section 3.11, at the Litigation Trustee's discretion, all of such records and documents may, but need not, be destroyed at any time after two (2) years from the Termination Date.

9.3 Termination of Duties. Except as otherwise specifically provided herein, upon the Termination Date of the Litigation Sub-Trust, the Litigation Trustee, the Oversight Board, and its Members shall have no further duties or obligations hereunder.

ARTICLE X. **AMENDMENTS AND WAIVER**

The Litigation Trustee, with the consent of a simple majority of the Oversight Board, may amend this Agreement to correct or clarify any non-material provisions. This Agreement may not otherwise be amended, supplemented, otherwise modified, or waived in any respect except by an instrument in writing signed by the Litigation Trustee and with the unanimous approval of the Oversight Board, and the approval of the Bankruptcy Court, after notice and a hearing; provided that the Litigation Trustee must provide the Oversight Board with prior written notice of any non-material amendments, supplements, modifications, or waivers of this Agreement.

ARTICLE XI.
MISCELLANEOUS

11.1 Trust Irrevocable. Except as set forth in this Agreement, establishment of the Litigation Sub-Trust by this Agreement shall be irrevocable and shall not be subject to revocation, cancellation or rescission by the Litigation Sub-Trust Beneficiary.

11.2 Litigation Sub-Trust Beneficiary has No Legal Title to Litigation Sub-Trust Assets. The Litigation Sub-Trust Beneficiary shall have no legal title to any part of the Litigation Sub-Trust Assets.

11.3 Agreement for Benefit of Parties Only. Nothing herein, whether expressed or implied, shall be construed to give any Person other than the Litigation Trustee, Oversight Board, and the Litigation Sub-Trust Beneficiary any legal or equitable right, remedy or claim under or in respect of this Agreement. The Litigation Sub-Trust Assets shall be held for the sole and exclusive benefit of the Litigation Sub-Trust Beneficiary.

11.4 Notices. All notices, directions, instructions, confirmations, consents and requests required or permitted by the terms hereof shall, unless otherwise specifically provided herein, be in writing and shall be sent by first class mail, facsimile, overnight mail or in the case of mailing to a non-United States address, air mail, postage prepaid, addressed to:

(a) If to the Litigation Trustee:

Marc S. Kirschner
c/o Goldin Associates LLC, a Teneo Company
350 Fifth Avenue
New York, New York 10118

With a copy to:

[insert contact for counsel to the Litigation Trustee].

(b) If to the Claimant Trustee:

Claimant Trustee
c/o **[insert contact info for Claimant Trustee]**

With a copy to:

Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd, 13th Floor
Los Angeles, CA 90067
Attn: Jeffrey Pomerantz (jpomerantz@pszjlaw.com)
Ira Kharasch (ikharasch@pszjlaw.com)
Gregory Demo (gdemo@pszjlaw.com)

Notice mailed shall be effective on the date mailed or sent. Any Person may change the address at which it is to receive notices under this Agreement by furnishing written notice pursuant to the provisions of this Section 11.4 to the entity to be charged with knowledge of such change.

11.5 Severability. Any provision hereof which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in another jurisdiction.

11.6 Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

11.7 Binding Effect, etc. All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the Litigation Sub-Trust, the Litigation Trustee, and the Litigation Sub-Trust Beneficiary, and their respective successors and assigns. Any notice, direction, consent, waiver or other instrument or action by any Litigation Sub-Trust Beneficiary shall bind its successors and assigns.

11.8 Headings; References. The headings of the various Sections herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

11.9 Governing Law. This Agreement shall in all respects be governed by, and construed in accordance with the laws of the State of Delaware, including all matters of constructions, validity and performance.

11.10 Consent to Jurisdiction. Each of the parties hereto, each Member (solely in their capacity as Members of the Oversight Board), and each Claimant Trust Beneficiary consents and submits to the exclusive jurisdiction of the Bankruptcy Court for any action or proceeding instituted for the enforcement and construction of any right, remedy, obligation, or liability arising under or by reason of this Agreement, the Plan or any act or omission of the Claimant Trustee (acting in his capacity as the Claimant Trustee or in any other capacity contemplated by this Agreement or the Plan), Litigation Trustee (acting in his capacity as the Litigation Trustee or in any other capacity contemplated by this Agreement or the Plan), the Oversight Board, or any individual Member (solely in their capacity as Members of the Oversight Board); *provided, however,* that if the Bankruptcy Court either declines to exercise jurisdiction over such action or cannot exercise jurisdiction over such action, such action may be brought in the state or federal courts located in the Northern District of Texas.

11.11 Transferee Liabilities. The Litigation Sub-Trust shall have no liability for, and the Litigation Sub-Trust Assets shall not be subject to, any claim arising by, through or under the Debtor except as expressly set forth in the Plan or in this Agreement. In no event shall the Litigation Trustee or the Litigation Sub-Trust Beneficiary have any personal liability for such claims. If any liability shall be asserted against the Litigation Sub-Trust or the Litigation Trustee as the transferee of the Litigation Sub-Trust Assets on account of any claimed liability of,

through or under the Debtor or Reorganized Debtor, the Litigation Trustee may use such part of the Litigation Sub-Trust Assets as may be necessary to contest any such claimed liability and to pay, compromise, settle or discharge same on terms reasonably satisfactory to the Litigation Trustee as a Litigation Sub-Trust Expense.

[Remainder of Page Intentionally Blank]

IN WITNESS HEREOF, the parties hereto have caused this Litigation Trust Agreement to be duly executed by their respective officers thereunto duly authorized on the day and year first written above.

Claimant Trustee

By: _____
James P. Seery, Jr., not individually but
solely in his capacity as the Claimant
Trustee

Litigation Trustee

By: _____
Marc S. Kirschner, not individually but
solely in his capacity as the Litigation Trustee

EXHIBIT 4

Fourth Amended and Restated Agreement of Limited Partnership of HCMLP

**FOURTH AMENDED AND RESTATED
AGREEMENT OF LIMITED PARTNERSHIP
OF
HIGHLAND CAPITAL MANAGEMENT, L.P.**

THE PARTNERSHIP INTERESTS REPRESENTED BY THIS LIMITED PARTNERSHIP AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR UNDER ANY STATE SECURITIES ACTS IN RELIANCE UPON EXEMPTIONS UNDER THOSE ACTS. THE SALE OR OTHER DISPOSITION OF THE PARTNERSHIP INTERESTS IS PROHIBITED UNLESS THAT SALE OR DISPOSITION IS MADE IN COMPLIANCE WITH ALL SUCH APPLICABLE ACTS. ADDITIONAL RESTRICTIONS ON TRANSFER OF THE PARTNERSHIP INTERESTS ARE SET FORTH IN THIS AGREEMENT.

**FOURTH AMENDED AND RESTATED
AGREEMENT OF LIMITED PARTNERSHIP
OF
HIGHLAND CAPITAL MANAGEMENT, L.P.**

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ARTICLE 2

DEFINITIONS

2.1. Definitions. The following definitions shall apply to the terms used in this Agreement, unless otherwise clearly indicated to the contrary in this Agreement:

“Additional Capital Contribution” has the meaning set forth in Section 3.1(b) of this Agreement.

“Adjusted Capital Account Deficit” means, with respect to any Partner, the deficit balance, if any, in the Capital Account of that Partner as of the end of the relevant Fiscal Year, or other relevant period, giving effect to all adjustments previously made thereto pursuant to Section 3.7 and further adjusted as follows: (i) credit to that Capital Account, any amounts which that Partner is obligated or deemed obligated to restore pursuant to any provision of this Agreement or pursuant to Treasury Regulations Section 1.704-1(b)(2)(ii)(c); (ii) debit to that Capital Account, the items described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6); and (iii) to the extent required under the Treasury Regulations, credit to that Capital Account (A) that Partner’s share of “minimum gain” and (B) that Partner’s share of “partner nonrecourse debt minimum gain.” (Each Partner’s share of the minimum gain and partner nonrecourse debt minimum gain shall be determined under Treasury Regulations Sections 1.704-2(g) and 1.704-2(i)(5), respectively.)

“Affiliate” means any Person that directly or indirectly controls, is controlled by, or is under common control with the Person in question. As used in this definition, the term *“control”* means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting Securities, by contract or otherwise.

“Agreement” means this Fourth Amended and Restated Agreement of Limited Partnership, as it may be amended, supplemented, or restated from time to time.

“Business Day” means Monday through Friday of each week, except that a legal holiday recognized as such by the government of the United States or the State of Texas shall not be regarded as a Business Day.

“Capital Account” means the capital account maintained for a Partner pursuant to Section 3.7(a).

“Capital Contribution” means, with respect to any Partner, the amount of money or property contributed to the Partnership with respect to the interest in the Partnership held by that Person.

“Certificate of Limited Partnership” means the Certificate of Limited Partnership filed with the Secretary of State of Delaware by the General Partner, as that Certificate may be amended, supplemented or restated from time to time.

“Class A Limited Partners” means those Partners holding a Class A Limited Partnership Interest, as shown on Exhibit A.

“Class A Limited Partnership Interest” means a Partnership Interest held by a Partner in its capacity as a Class A Limited Partner.”

“Class B Limited Partner” means those Partners holding a Class B Limited Partnership Interest, as shown on Exhibit A.

“Class B Limited Partnership Interest” means a Partnership Interest held by a Partner in its capacity as a Class B Limited Partner.”

“Class B NAV Ratio Trigger Period” means any period during which the Class B Limited Partner’s aggregate capital contributions, including the original principal balance of the Contribution Note, and reduced by the aggregate amount of distributions to the Class B Limited Partner, exceed 75 percent of the product of the Class B Limited Partner’s Percentage Interest multiplied by the total book value of the Partnership; provided, however, that the General Partner shall only be required to test for a Class B NAV Ratio Trigger Period annually, as of the last day of each calendar year; provided further the General Partner must complete the testing within 180 days of the end of each calendar year; provided further that if the test results in a Class B NAV Ratio Trigger Period, the General Partner may, at its own election, retest at any time to determine the end date of the Class B NAV Ratio Trigger Period.

“Class C Limited Partner” means those Partners holding a Class C Limited Partnership Interest, as shown on Exhibit A.

“Class C Limited Partnership Interest” means a Partnership Interest held by a Partner in its capacity as a Class C Limited Partner.”

“Class C NAV Ratio Trigger Period” means any period during which an amount equal to \$93,000,000.00 reduced by the aggregate amount of distributions to the Class C Limited Partner after the Effective Date exceeds 75 percent of the product of the Class C Limited Partner’s Percentage Interest multiplied by the total book value of the Partnership; provided, however, that the General Partner shall only be required to test for a Class C NAV Ratio Trigger Period annually, as of the last day of each calendar year; provided further the General Partner must complete the testing within 180 days of the end of each calendar year; provided further that if the test results in a Class C NAV Ratio Trigger Period, the General Partner may, at its own election, retest at any time to determine the end date of the Class C NAV Ratio Trigger Period.

“Code” means the Internal Revenue Code of 1986, as amended and in effect from time to time.

“Contribution Note” means that certain Secured Promissory Note dated December 21, 2015 by and among Hunter Mountain Investment Trust, as maker, and the Partnership as Payee.

“Default Loan” has the meaning set forth in Section 3.1(c)(i).

“Defaulting Partner” has the meaning set forth in Section 3.1(c).

“Delaware Act” means the Delaware Revised Uniform Limited Partnership Act, Part IV, Title C, Chapter 17 of the Delaware Corporation Law Annotated, as it may be amended, supplemented or restated from time to time, and any successor to that Act.

“Effective Date” means the date first recited above.

“Fiscal Year” has the meaning set forth in Section 3.11(b).

“Partner” means a General Partner or a Limited Partner.

“**Partner Nonrecourse Debt**” has the meaning set forth in Treasury Regulations Section 1.704-2(b)(4).

“**Partner Nonrecourse Deductions**” has the meaning set forth in Treasury Regulations Section 1.704-2(i)(2).

“**Partner Nonrecourse Debt Minimum Gain**” has the meaning set forth in Treasury Regulations Section 1.704-2(i)(5).

“**Partnership**” means Highland Capital Management, L.P., the Delaware limited partnership established pursuant to this Agreement.

“*Partnership Capital*” means, as of any relevant date, the net book value of the Partnership’s assets.

“**Partnership Interest**” means the interest acquired by a Partner in the Partnership including, without limitation, that Partner’s right: (a) to an allocable share of the Profits, Losses, deductions, and credits of the Partnership; (b) to a distributive share of the assets of the Partnership; (c) if a Limited Partner, to vote on those matters described in this Agreement; and (d) if the General Partner, to manage and operate the Partnership.

“*Partnership Minimum Gain*” has the meaning set forth in Treasury Regulations Section 1.704-2(d).

“**Percentage Interest**” means the percentage set forth opposite each Partner’s name on Exhibit A as such Exhibit may be amended from time to time in accordance with this Agreement.

“**Person**” means an individual or a corporation, partnership, trust, estate, unincorporated organization, association, or other entity.

“Priority Distributions” has the meaning set forth in Section 3.9(b).

“*Profits*” means, for each Fiscal Year, the income and gains of the Partnership determined in accordance with accounting principles consistently applied from year to year employed under the Partnership’s method of accounting and as reported, separately or in the aggregate, as appropriate, on the Partnership’s information tax return filed for federal income tax purposes, plus any income described in Code Section 705(a)(1)(B).

“Profits Interest Partner” means any Person who is issued a Partnership Interest that is treated as a “profits interest” for federal income tax purposes.

“Purchase Notes” means those certain Secured Promissory Notes of even date herewith by and among Hunter Mountain Investment Trust, as maker, and The Dugaboy Investment Trust, The Mark K. Okada, The Mark and Pamela Okada Family Trust – Exempt Trust #1, and The Mark K. Okada, The Mark and Pamela Okada Family Trust – Exempt Trust #2, each as Payees of the respective Secured Promissory Notes.

“**Record Date**” means the date established by the General Partner for determining the identity of Limited Partners entitled to vote or give consent to Partnership action or entitled to exercise rights in respect of any other lawful action of Limited Partners.

“**Second Amended Buy-Sell and Redemption Agreement**” means that certain Second Amended and Restated Buy-Sell and Redemption Agreement, dated December 21, 2015, to be effective as of December 21, 2015 by and between the Partnership and its Partners, as may be amended, supplemented, or restated from time to time.

“**Securities**” means the following: (i) securities of any kind (including, without limitation, “securities” as that term is defined in Section 2(a)(1) of the Securities Act; (ii) commodities of any kind (as that term is defined by the U.S. Securities Laws and the rules and regulations promulgated thereunder); (iii) any contracts for future or forward delivery of any security, commodity or currency; (iv) any contracts based on any securities or group of securities, commodities or currencies; (v) any options on any contracts referred to in clauses (iii) or (iv); or (vi) any evidences of indebtedness (including participations in or assignments of bank loans or trade credit claims). The items set forth in clauses (i) through (vi) herein include, but are not limited to, capital stock, common stock, preferred stock, convertible securities, reorganization certificates, subscriptions, warrants, rights, options, puts, calls, bonds, mutual fund interests, debentures, notes, certificates of deposit, letters of credit, bankers acceptances, trust receipts and other securities of any corporation or other entity, whether readily marketable or not, rights and options, whether granted or written by the Partnership or by others, treasury bills, bonds and notes, any securities or obligations issued or guaranteed by the United States or any foreign country or any state or possession of the United States or any foreign country or any political subdivision or agency or instrumentality of any of the foregoing, and derivatives of any of the foregoing.

“**Securities Act**” means the Securities Act of 1933, as amended, and any successor to such statute.

“**Substitute Limited Partner**” has the meaning set forth in Section 4.6(a).

“**Transfer**” or derivations thereof, of a Partnership Interest means, as a noun, the transfer, sale, assignment, exchange, pledge, hypothecation or other disposition of a Partnership Interest, or any part thereof, directly or indirectly, and as a verb, voluntarily or involuntarily to transfer, sell, assign, exchange, pledge, hypothecate or otherwise dispose of.

“**Treasury Regulations**” means the Department of Treasury Regulations promulgated under the Code, as amended and in effect (including corresponding provisions of succeeding regulations).

2.2. Other Definitions. All terms used in this Agreement that are not defined in this Article 2 have the meanings contained elsewhere in this Agreement.

ARTICLE 3

FINANCIAL MATTERS

3.1. Capital Contributions.

(a) Initial Capital Contributions. The initial Capital Contribution of each Partner shall be set forth in the books and records of the Partnership.

(b) Additional Capital Contributions.

(i) The General Partner, in its reasonable discretion and for a *bona fide* business purpose, may request in writing that the Founding Partner Group make additional Capital Contributions in proportion to their Percentage Interests (each, an “***Additional Capital Contribution***”).

(ii) Any failure by a Partner to make an Additional Capital Contribution requested under Section 3.1(b)(i) on or before the date on which that Additional Capital Contribution was due shall result in the Partner being in default.

(c) Consequences to Defaulting Partners. In the event a Partner is in default under Section 3.1(b) (a “***Defaulting Partner***”), the Defaulting Partner, in its sole and unfettered discretion, may elect to take either one of the option set forth below.

(i) Default Loans. If the Defaulting Partner so elects, the General Partner shall make a loan to the Defaulting Partner in an amount equal to that Defaulting Partner’s additional capital contribution (a “***Default Loan***”). A Default Loan shall be deemed advanced on the date actually advanced. Default Loans shall earn interest on the outstanding principal amount thereof at a rate equal to the Applicable Federal Mid-Term Rate (determined by the Internal Revenue Service for the month in which the loan is deemed made) from the date actually advanced until the same is repaid in full. The term of any Default Loan shall be six (6) months, unless otherwise extended by the General Partner in its sole and unfettered discretion. If the General Partner makes a Default Loan, the Defaulting Partner shall not receive any distributions pursuant to Section 3.9(a) or Section 5.3 or any proceeds from the Transfer of all or any part of its Partnership Interest while the Default Loan remains unpaid. Instead, the Defaulting Partner’s share of distributions or such other proceeds shall (until all Default Loans and interest thereon shall have been repaid in full) first be paid to the General Partner. Such payments shall be applied first to the payment of interest on such Default Loans and then to the repayment of the principal amounts thereof, but shall be considered, for all other purposes of this Agreement, to have been distributed to the Defaulting Partner. The Defaulting Partner shall be liable for the reasonable fees and expenses incurred by the General Partner (including, without limitation, reasonable attorneys’ fees and disbursements) in connection with any enforcement or foreclosure upon any Default Loan and such costs shall, to the extent enforceable under applicable law, be added to the principal amount of the applicable Default Loan. In addition, at any time during the term of such Default Loan, the Defaulting Partner shall have the right to repay, in full, the Default Loan (including interest and any other charges). If the General Partner makes a Default Loan, the Defaulting Partner shall be deemed to have pledged to the General Partner and granted to the General Partner a continuing first priority security interest in, all of the Defaulting Partner’s Partnership Interest to secure the payment of the principal of, and interest on, such Default Loan in accordance with the provisions hereof, and for such purpose this Agreement shall constitute a security agreement. The Defaulting Partner shall promptly execute, acknowledge and deliver such financing statements, continuation statements or other documents and take such other actions as the General Partner shall request in writing in order to perfect or continue the perfection of such security interest; and, if the Defaulting Partner shall fail to do so within seven (7) days after the Defaulting Partner’s receipt of a notice making demand therefor, the General Partner is hereby appointed the attorney-in-fact of, and is hereby authorized on behalf of, the Defaulting Partner, to execute, acknowledge and deliver all such documents and take all such other actions as may be required to perfect such security interest. Such appointment and authorization are coupled with an interest and shall be irrevocable. The General Partner shall, prior to exercising any right or remedy (whether at law, in equity or pursuant to the terms hereof) available to it in connection with such security interest, provide to the Defaulting Partner a notice, in reasonable detail, of the right or remedy to be exercised and the intended timing of such exercise which shall not be less than five (5) days following the date of such notice.

(ii) Reduction of Percentage Interest. If the Defaulting Partner does not elect to obtain a Default Loan pursuant to Section 3.1(c)(i), the General Partner shall reduce the Defaulting Partner's Percentage Interest in accordance with the following formula:

The Defaulting Partner's new Percentage Interest shall equal the product of (1) the Defaulting Partner's current Percentage Interest, multiplied by (2) the quotient of (a) the current Capital Account of the Defaulting Partner (with such Capital Account determined after taking into account a revaluation of the Capital Accounts immediately prior to such determination), divided by (b) the sum of (i) the current Capital Account of the Defaulting Partner (with such Capital Account determined after taking into account a revaluation of the Capital Accounts immediately prior to such determination), plus (ii) the amount of the additional capital contribution that such Defaulting Partner failed to make when due.

To the extent any downward adjustment is made to the Percentage Interest of a Partner pursuant to this Section 3.1(c)(ii), any resulting benefit shall accrue to the Partners (other than the Defaulting Partner) in proportion to their respective Percentage Interests.

3.2. Allocations of Profits and Losses.

(a) Allocations of Profits. Except as provided in Sections 3.4, 3.5, and 3.6, Profits for any Fiscal Year will be allocated to the Partners as follows:

(i) First, to the Partners until cumulative Profits allocated under this Section 3.2(a)(i) for all prior periods equal the cumulative Losses allocated to the Partners under Section 3.2(b)(iii) for all prior periods in the inverse order in which such Losses were allocated; and

(ii) Next, to the Partners until cumulative Profits allocated under this Section 3.2(a)(ii) for all prior periods equal the cumulative Losses allocated to the Partners under Section 3.2(b)(ii) for all prior periods in the inverse order in which such Losses were allocated; and

(iii) Then, to all Partners in proportion to their respective Percentage Interests.

(b) Allocations of Losses. Except as provided in Sections 3.4, 3.5, and 3.6, Losses for any Fiscal Year will be will be allocated as follows:

(i) First, to the Partners until cumulative Losses allocated under this Section 3.2(b)(i) for all prior periods equal the cumulative Profits allocated to the Partners under Section 3.2(a)(iii) for all prior periods in the inverse order in which such Profits were allocated; and

(ii) Next, to the Partners in proportion to their respective positive Capital Account balances until the aggregate Capital Account balances of the Partners (excluding any negative Capital Account balances) equal zero; *provided, however*, losses shall first be allocated to reduce amounts that were last allocated to the Capital Accounts of the Partners; and

(iii) Then, to all Partners in proportion to their respective Percentage Interests.

(c) Limitation on Loss Allocations. If any allocation of Losses would cause a Limited Partner to have an Adjusted Capital Account Deficit, those Losses instead shall be allocated to the General Partner.

3.3. Allocations on Transfers. Taxable items of the Partnership attributable to a Partnership Interest that has been Transferred (including the simultaneous decrease in the Partnership Interest of existing Partners resulting from the admission of a new Partner) shall be allocated in accordance with Section 4.3(d).

3.4. Special Allocations. If the requisite stated conditions or facts are present, the following special allocations shall be made in the following order:

(a) Partnership Minimum Gain Chargeback. Notwithstanding any other provision of this Article 3, if there is a net decrease in Partnership Minimum Gain during any taxable year or other period for which allocations are made, prior to any other allocation under this Agreement, each Partner shall be specially allocated items of Partnership income and gain for that period (and, if necessary, subsequent periods) in proportion to, and to the extent of, an amount equal to that Partner's share of the net decrease in Partnership Minimum Gain during that year determined in accordance with Treasury Regulations Section 1.704-2(g)(2). The items to be allocated shall be determined in accordance with Treasury Regulations Section 1.704-2(g). This Section 3.4(a) is intended to comply with the partnership minimum gain chargeback requirements of the Treasury Regulations and shall be subject to all exceptions provided therein.

(b) Partner Nonrecourse Debt Minimum Gain Chargeback. Notwithstanding any other provision of this Article 3 (other than Section 3.4(a)), if there is a net decrease in Partner Nonrecourse Debt Minimum Gain with respect to a Partner Nonrecourse Debt during any taxable year or other period for which allocations are made, any Partner with a share of such Partner Nonrecourse Debt Minimum Gain as of the beginning of the year shall be specially allocated items of Partnership income and gain for that period (and, if necessary, subsequent periods) in an amount equal to that Partner's share of the net decrease in the Partner Nonrecourse Debt Minimum Gain during that year determined in accordance with Treasury Regulations Section 1.704-2(g)(2). The items to be so allocated shall be determined in accordance with Treasury Regulations Section 1.704-2(g). This Section 3.4(b) is intended to comply with the partner nonrecourse debt minimum gain chargeback requirements of the Treasury Regulations, shall be interpreted consistently with the Treasury Regulations and shall be subject to all exceptions provided therein.

(c) Qualified Income Offset. If a Partner unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (d)(5) or (d)(6), then items of Partnership income and gain shall be specially allocated to each such Partner in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the Adjusted Capital Account Deficit of the Partner as quickly as possible; *provided, however*, an allocation pursuant to this Section 3.4(c) shall be made if and only to the extent that the Partner would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article 3 have been tentatively made without considering this Section 3.4(c).

(d) Gross Income Allocation. If a Partner has a deficit Capital Account at the end of any Fiscal Year of the Partnership that exceeds the sum of (i) the amount the Partner is obligated to restore, and (ii) the amount the Partner is deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), then each such Partner shall be specially allocated items of income and gain of the Partnership in the amount of the excess as quickly as possible; *provided, however*, an allocation pursuant to this Section 3.4(d) shall be made if and only to

the extent that the Partner would have a deficit Capital Account in excess of that sum after all other allocations provided for in this Article 3 have been tentatively made without considering Section 3.4(c) or 3.4(d).

(e) Nonrecourse Deductions. Nonrecourse Deductions for any taxable year or other period for which allocations are made shall be allocated among the Partners in accordance with their Percentage interests.

(f) Partner Nonrecourse Deductions. Notwithstanding anything to the contrary in this Agreement, any Partner Nonrecourse Deductions for any taxable year or other period for which allocations are made will be allocated to the Partner who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which the Partner Nonrecourse Deductions are attributable in accordance with Treasury Regulations Section 1.704-2(i).

(g) Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any asset of the Partnership under Code Section 734(b) or Code Section 743(b) is required, pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of the adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) and that gain or loss shall be specially allocated to the Partners in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to that Section of the Treasury Regulations.

(h) Section 481 Adjustments. Any allocable items of income, gain, expense, deduction or credit required to be made by Section 481 of the Code as the result of the sale, transfer, exchange or issuance of a Partnership Interest will be specially allocated to the Partner receiving said Partnership Interest whether such items are positive or negative in amount.

3.5. Curative Allocations. The “*Basic Regulatory Allocations*” consist of (i) the allocations pursuant to Section 3.2(c), and (ii) the allocations pursuant to Sections 3.4. Notwithstanding any other provision of this Agreement, the Basic Regulatory Allocations shall be taken into account in allocating items of income, gain, loss and deduction among the Partners so that, to the extent possible, the net amount of the allocations of other items and the Basic Regulatory Allocations to each Partner shall be equal to the net amount that would have been allocated to each such Partner if the Basic Regulatory Allocations had not occurred. For purposes of applying the foregoing sentence, allocations pursuant to this Section 3.5 shall be made with respect to allocations pursuant to Section 3.4 (g) and (h) only to the extent that it is reasonably determined that those allocations will otherwise be inconsistent with the economic agreement among the Partners. To the extent that a special allocation under Section 3.4 is determined not to comply with applicable Treasury Regulations, then the Partners intend that the items shall be allocated in accordance with the Partners’ varying Percentage Interests throughout each tax year during which such items are recognized for tax purposes.

3.6. Code Section 704(c) Allocations. In accordance with Code Section 704(c) and the Treasury Regulations thereunder, income, gain, loss and deduction with respect to property contributed to the capital of the Partnership shall, solely for tax purposes, be allocated among the Partners so as to take account of any variation at the time of the contribution between the tax basis of the property to the Partnership and the fair market value of that property. Except as otherwise provided herein, any elections or other decisions relating to those allocations shall be made by the General Partner in any manner that reasonably reflects the purpose and intent of this Agreement. Allocations of income, gain, loss and deduction pursuant to this Section 3.6 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, the Capital Account of any Partner or the share

of Profits, Losses, other tax items or distributions of any Partner pursuant to any provision of this Agreement.

3.7. Capital Accounts.

(a) Maintenance of Capital Accounts. The Partnership shall establish and maintain a separate capital account ("**Capital Account**") for each Partner in accordance with the rules of Treasury Regulations Section 1.704-1(b)(2)(iv), subject to and in accordance with the provisions set forth in this Section 3.7.

(i) The Capital Account balance of each Partner shall be credited (increased) by (A) the amount of cash contributed by that Partner to the capital of the Partnership, (B) the fair market value of property contributed by that Partner to the capital of the Partnership (net of liabilities secured by that contributed property that the Partnership assumes or takes subject to under Code Section 752), and (C) that Partner's allocable share of Profits and any items in the nature of income or gain which are specially allocated pursuant to Sections 3.4 and 3.5; and

(ii) The Capital Account balance of each Partner shall be debited (decreased) by (A) the amount of cash distributed to that Partner by the Partnership, (B) the fair market value of property distributed to that Partner by the Partnership (net of liabilities secured by that distributed property that such Partner assumes or takes subject to under Code Section 752), (C) that Partner's allocable share of expenditures of the Partnership described in Code Section 705(a)(2)(B), and (D) that Partner's allocable share of Losses and any items in the nature of expenses or losses which are specially allocated pursuant to Sections 3.2, 3.4 and 3.5.

The provisions of this Section 3.7 and the other provisions of this Agreement relating to the maintenance of Capital Accounts have been included in this Agreement to comply with Code Section 704(b) and the Treasury Regulations promulgated thereunder and will be interpreted and applied in a manner consistent with those provisions. The General Partner may modify the manner in which the Capital Accounts are maintained under this Section 3.7 in order to comply with those provisions, as well as upon the occurrence of events that might otherwise cause this Agreement not to comply with those provisions.

(b) Negative Capital Accounts. If any Partner has a deficit balance in its Capital Account, that Partner shall have no obligation to restore that negative balance or to make any Capital Contribution by reason thereof, and that negative balance shall not be considered an asset of the Partnership or of any Partner.

(c) Interest. No interest shall be paid by the Partnership on Capital Contributions or on balances in Capital Accounts.

(d) No Withdrawal. No Partner shall be entitled to withdraw any part of his/her/its Capital Contribution or his/her/its Capital Account or to receive any distribution from the Partnership, except as provided in Section 3.9 and Article 5.

(e) Loans From Partners. Loans by a Partner to the Partnership shall not be considered Capital Contributions.

(f) Revaluations. The Capital Accounts of the Partners shall not be "booked-up" or "booked-down" to their fair market values under Treasury Regulations Section 1.704(c)-1(b)(2)(iv)(f) or otherwise.

3.8. Distributive Share for Tax Purpose. All items of income, deduction, gain, loss or credit that are recognized for federal income tax purposes will be allocated among the Partners in accordance with the allocations of Profits and Losses hereunder as determined by the General Partner in its sole and unfettered discretion. Notwithstanding the foregoing, the General Partner may (i) as to each New Issue, specially allocate to the Partners who were allocated New Issue Profit from that New Issue any short-term capital gains realized during the Fiscal Year upon the disposition of such New Issue during that Fiscal Year, and (ii) specially allocate items of gain (or loss) to Partners who withdraw capital during any Fiscal Year in a manner designed to ensure that each withdrawing Partner is allocated gain (or loss) in an amount equal to the difference between that Partner's Capital Account balance (or portion thereof being withdrawn) at the time of the withdrawal and the tax basis for his/her/ its Partnership Interest at that time (or proportionate amount thereof); *provided, however*, that the General Partner may, without the consent of any other Partner, (a) alter the allocation of any item of taxable income, gain, loss, deduction or credit in any specific instance where the General Partner, in its sole and unfettered discretion, determines such alteration to be necessary or appropriate to avoid a materially inequitable result (*e.g.*, where the allocation would create an inappropriate tax liability); and/or (b) adopt whatever other method of allocating tax items as the General Partner determines is necessary or appropriate in order to be consistent with the spirit and intent of the Treasury Regulations under Code Sections 704(b) and 704(c).

3.9. Distributions.

(a) General. The General Partner may make such pro rata or non-pro rata distributions as it may determine in its sole and unfettered discretion, without being limited to current or accumulated income or gains, but no such distribution shall be made out of funds required to make current payments on Partnership indebtedness; provided, however, that the General Partner may not make non-pro rata distributions under this Section 3.9(a) during an NAV Ratio Trigger Period without the consent of the Class B Limited Partner (in the case of a Class B NAV Ratio Trigger Period) and/or the Class C Limited Partner (in the case of a Class C NAV Ratio Trigger Period); provided, further this provision should not be interpreted to limit in any way the General Partner's ability to make non-pro rata tax distributions under Section 3.9(c) and Section 3.9(f). The Partnership has entered into one or more credit facilities with financial institutions that may limit the amount and timing of distributions to the Partners. Thus, the Partners acknowledge that distributions from the Partnership may be limited. Any distributions made to the Class B Limited Partner or the Class C Limited Partner pursuant to Section 3.9(b) shall reduce distributions otherwise allocable to such Partners under this Section 3.9(a) until such aggregate reductions are equal to the aggregate distributions made to the Class B Partners and the Class C Partners under Section 3.9(b).

(b) Priority Distributions. Prior to the distribution of any amounts to Partners pursuant to Section 3.9(a), and notwithstanding any other provision in this Agreement to the contrary, the Partnership shall make the following distributions ("**Priority Distributions**") pro-rata among the Class B Limited Partner and the Class C Limited Partner in accordance with their relative Percentage Interests:

(i) No later than March 31st of each calendar year, commencing March 31, 2017, an amount equal to \$1,600,000.00;

(ii) No later than March 31st of each year, commencing March 31, 2017, an amount equal to three percent (3%) of the Partnership's investment gain for the prior year, as reflected in the Partnership's books and records within ledger account number 90100 plus three percent (3%) of the gross realized investment gains for the prior year of Highland Select Equity Fund, as reflected in its books and records;

(iii) No later than March 31st of each year, commencing March 31, 2017, an amount equal to ten percent (10%) of the Partnership's Operating Cash Flow for the prior year; and

(iv) No later than December 24th of each year, commencing December 24, 2016, an amount equal to the aggregate annual principal and interest payments on the Purchase Notes for the then current year.

(c) Tax Distributions. The General Partner may, in its sole discretion, declare and make cash distributions pursuant hereto to the Partners to allow the federal and state income tax attributable to the Partnership's taxable income that is passed through the Partnership to the Partners to be paid by such Partners (a "***Tax Distribution***"). The General Partner may, in its discretion, make Tax Distributions to the Founding Partner Group without also making Tax Distributions to other Partners; provided, however, that if the General Partner makes Tax Distributions to the Founding Partner Group, Tax Distributions must also be made the Class B Limited Partner to the extent the Class B Limited Partner provides the Partnership with documentation showing it is subject to an entity-level federal income tax obligation. Notwithstanding anything else in this Agreement, the General Partner may declare and pay Tax Distributions even if such Tax Distributions cause the Partnership to be unable to make Priority Distributions under Section 3.9(b).

(d) Payments Not Deemed Distributions. Any amounts paid pursuant to Sections 4.1(e) or 4.1(h) shall not be deemed to be distributions for purposes of this Agreement.

(e) Withheld Amounts. Notwithstanding any other provision of this Section 3.9 to the contrary, each Partner hereby authorizes the Partnership to withhold and to pay over, or otherwise pay, any withholding or other taxes payable by the Partnership with respect to that Partner as a result of that Partner's participation in the Partnership. If and to the extent that the Partnership shall be required to withhold or pay any such taxes, that Partner shall be deemed for all purposes of this Agreement to have received a payment from the Partnership as of the time that withholding or tax is paid, which payment shall be deemed to be a distribution with respect to that Partner's Partnership Interest to the extent that the Partner (or any successor to that Partner's Partnership Interest) is then entitled to receive a distribution. To the extent that the aggregate of such payments to a Partner for any period exceeds the distributions to which that Partner is entitled for that period, the amount of such excess shall be considered a loan from the Partnership to that Partner. Such loan shall bear interest (which interest shall be treated as an item of income to the Partnership) at the "Applicable Federal Rate" (as defined in the Code), as determined hereunder from time to time, until discharged by that Partner by repayment, which may be made in the sole and unfettered discretion of the General Partner out of distributions to which that Partner would otherwise be subsequently entitled. Any withholdings authorized by this Section 3.9(d) shall be made at the maximum applicable statutory rate under the applicable tax law unless the General Partner shall have received an opinion of counsel or other evidence satisfactory to the General Partner to the effect that a lower rate is applicable, or that no withholding is applicable.

(f) Special Tax Distributions. The Partnership shall, upon request of such Founding Partner, make distributions to the Founding Partners (or loans, at the election of the General Partner) in an amount necessary for each of them to pay their respective federal income tax obligations incurred through the effective date of the Third Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., the predecessor to this Agreement.

(g) Tolling of Priority Distributions. In the event of a "Honis Trigger Event," as defined in the Second Amended Buy-Sell and Redemption Agreement, the Partnership shall not make any distributions, including priority distributions under Section 3.9(b), to the Class B Limited Partner or the Class C Limited Partner until such time as a replacement trust administrator, manager and general partner,

as applicable, acceptable to the Partnership in its sole discretion, as indicated by an affirmative vote of consent by a Majority Interest, shall be appointed to the Class B Limited Partner/Class C Limited Partner and any of its direct or indirect owners that have governing documents directly affected by a Honis Trigger Event.

3.10. Compensation and Reimbursement of General Partner.

(a) Compensation. The General Partner and any Affiliate of the General Partner shall receive no compensation from the Partnership for services rendered pursuant to this Agreement or any other agreements unless approved by a Majority Interest; provided, however, that no compensation above five million dollars per year may be approved, even by a Majority Interest, during a NAV Ratio Trigger Period.

(b) Reimbursement for Expenses. In addition to amounts paid under other Sections of this Agreement, the General Partner and its Affiliates shall be reimbursed for all expenses, disbursements, and advances incurred or made, and all fees, deposits, and other sums paid in connection with the organization and operation of the Partnership, the qualification of the Partnership to do business, and all related matters.

3.11. Books, Records, Accounting, and Reports.

(a) Records and Accounting. The General Partner shall keep or cause to be kept appropriate books and records with respect to the Partnership's business, which shall at all times be kept at the principal office of the Partnership or such other office as the General Partner may designate for such purpose. The books of the Partnership shall be maintained for financial reporting purposes on the accrual basis or on a cash basis, as the General Partner shall determine in its sole and unfettered discretion, in accordance with generally accepted accounting principles and applicable law. Upon reasonable request, the Class B Limited Partner or the Class C Limited Partner may inspect the books and records of the Partnership.

(b) Fiscal Year. The fiscal year of the Partnership shall be the calendar year unless otherwise determined by the General Partner in its sole and unfettered discretion.

(c) Other Information. The General Partner may release information concerning the operations of the Partnership to any financial institution or other Person that has loaned or may loan funds to the Partnership or the General Partner or any of its Affiliates, and may release such information to any other Person for reasons reasonably related to the business and operations of the Partnership or as required by law or regulation of any regulatory body.

(d) Distribution Reporting to Class B Limited Partner and Class C Limited Partner. Upon request, the Partnership shall provide the Class B Limited Partner and/or the Class C Limited Partner information on any non-pro rata distributions made under Section 3.9 to Partners other than the Partner requesting the information.

3.12. Tax Matters.

(a) Tax Returns. The General Partner shall arrange for the preparation and timely filing of all returns of Partnership income, gain, loss, deduction, credit and other items necessary for federal, state and local income tax purposes. The General Partner shall deliver to each Partner as copy of his/her/its IRS Form K-1 as soon as practicable after the end of the Fiscal Year, but in no event later than October 1. The classification, realization, and recognition of income, gain, loss, deduction, credit and

other items shall be on the cash or accrual method of accounting for federal income tax purposes, as the General Partner shall determine in its sole and unfettered discretion. The General Partner in its sole and unfettered discretion may pay state and local income taxes attributable to operations of the Partnership and treat such taxes as an expense of the Partnership.

(b) Tax Elections. Except as otherwise provided herein, the General Partner shall, in its sole and unfettered discretion, determine whether to make any available tax election.

(c) Tax Controversies. Subject to the provisions hereof, the General Partner is designated the Tax Matters Partner (as defined in Code Section 6231), and is authorized and required to represent the Partnership, at the Partnership's expense, in connection with all examinations of the Partnership's affairs by tax authorities, including resulting administrative and judicial proceedings, and to expend Partnership funds for professional services and costs associated therewith. Each Partner agrees to cooperate with the General Partner in connection with such proceedings.

(d) Taxation as a Partnership. No election shall be made by the Partnership or any Partner for the Partnership to be excluded from the application of any of the provisions of Subchapter K, Chapter 1 of Subtitle A of the Code or from any similar provisions of any state tax laws.

ARTICLE 4

RIGHTS AND OBLIGATIONS OF PARTNERS

4.1. Rights and Obligations of the General Partner. In addition to the rights and obligations set forth elsewhere in this Agreement, the General Partner shall have the following rights and obligations:

(a) Management. The General Partner shall conduct, direct, and exercise full control of over all activities of the Partnership. Except as otherwise expressly provided in this Agreement, all management powers over the business and affairs of the Partnership shall be exclusively vested in the General Partner, and Limited Partners shall have no right of control over the business and affairs of the Partnership. In addition to the powers now or hereafter granted to a general partner of a limited partnership under applicable law or that are granted to the General Partner under any provision of this Agreement, the General Partner shall have full power and authority to do all things deemed necessary or desirable by it to conduct the business of the Partnership, including, without limitation: (i) the determination of the activities in which the Partnership will participate; (ii) the performance of any and all acts necessary or appropriate to the operation of any business of the Partnership (including, without limitation, purchasing and selling any asset, any debt instruments, any equity interests, any commercial paper, any note receivables and any other obligations); (iii) the procuring and maintaining of such insurance as may be available in such amounts and covering such risks as are deemed appropriate by the General Partner; (iv) the acquisition, disposition, sale, mortgage, pledge, encumbrance, hypothecation, of exchange of any or all of the assets of the Partnership; (v) the execution and delivery on behalf of, and in the name of the Partnership, deeds, deeds of trust, notes, leases, subleases, mortgages, bills of sale and any and all other contracts or instruments necessary or incidental to the conduct of the Partnership's business; (vi) the making of any expenditures, the borrowing of money, the guaranteeing of indebtedness and other liabilities, the issuance of evidences of indebtedness, and the incurrence of any obligations it deems necessary or advisable for the conduct of the activities of the Partnership, including, without limitation, the payment of compensation and reimbursement to the General Partner and its Affiliates pursuant to Section 3.10; (vii) the use of the assets of the Partnership (including, without limitation, cash on hand) for any Partnership purpose on any terms it sees fit, including, without limitation, the financing of operations of the Partnership, the lending of funds to other Persons, and the repayment of obligations

of the Partnership; (viii) the negotiation, execution, and performance of any contracts that it considers desirable, useful, or necessary to the conduct of the business or operations of the Partnership or the implementation of the General Partner's powers under this Agreement; (ix) the distribution of Partnership cash or other assets; (x) the selection, hiring and dismissal of employees, attorneys, accountants, consultants, contractors, agents and representatives and the determination of their compensation and other terms of employment or hiring; (xi) the formation of any further limited or general partnerships, joint ventures, or other relationships that it deems desirable and the contribution to such partnerships, ventures, or relationships of assets and properties of the Partnership; and (xii) the control of any matters affecting the rights and obligations of the Partnership, including, without limitation, the conduct of any litigation, the incurring of legal expenses, and the settlement of claims and suits.

(b) Certificate of Limited Partnership. The General Partner caused the Certificate of Limited Partnership of the Partnership to be filed with the Secretary of State of Delaware as required by the Delaware Act and shall cause to be filed such other certificates or documents (including, without limitation, copies, amendments, or restatements of this Agreement) as may be determined by the General Partner to be reasonable and necessary or appropriate for the formation, qualification, or registration and operation of a limited partnership (or a partnership in which Limited Partners have limited liability) in the State of Delaware and in any other state where the Partnership may elect to do business.

(c) Reliance by Third Parties. Notwithstanding any other provision of this Agreement to the contrary, no lender or purchaser or other Person, including any purchaser of property from the Partnership or any other Person dealing with the Partnership, shall be required to verify any representation by the General Partner as to its authority to encumber, sell, or otherwise use any assets or properties of the Partnership, and any such lender, purchaser, or other Person shall be entitled to rely exclusively on such representations and shall be entitled to deal with the General Partner as if it were the sole party in interest therein, both legally and beneficially. Each Limited Partner hereby waives any and all defenses or other remedies that may be available against any such lender, purchaser, or other Person to contest, negate, or disaffirm any action of the General Partner in connection with any such sale or financing. In no event shall any Person dealing with the General Partner or the General Partner's representative with respect to any business or property of the Partnership be obligated to ascertain that the terms of this Agreement have been complied with, and each such Person shall be entitled to rely on the assumptions that the Partnership has been duly formed and is validly in existence. In no event shall any such Person be obligated to inquire into the necessity or expedience of any act or action of the General Partner or the General Partner's representative, and every contract, agreement, deed, mortgage, security agreement, promissory note, or other instrument or document executed by the General Partner or the General Partner's representative with respect to any business or property of the Partnership shall be conclusive evidence in favor of any and every Person relying thereon or claiming thereunder that (i), at the time of the execution and delivery thereof, this Agreement was in full force and effect; (ii) such instrument or document was duly executed in accordance with the terms and provisions of this Agreement and is binding upon the Partnership; and (iii) the General Partner or the General Partner's representative was duly authorized and empowered to execute and deliver any and every such instrument or document for and on behalf of the Partnership.

(d) Partnership Funds. The funds of the Partnership shall be deposited in such account or accounts as are designated by the General Partner. The General Partner may, in its sole and unfettered discretion, deposit funds of the Partnership in a central disbursing account maintained by or in the name of the General Partner, the Partnership, or any other Person into which funds of the General Partner, the Partnership, or other Persons are also deposited; *provided, however*, at all times books of account are maintained that show the amount of funds of the Partnership on deposit in such account and interest accrued with respect to such funds as credited to the Partnership. The General Partner may use the funds of the Partnership as compensating balances for its benefit; *provided, however*, such funds do

not directly or indirectly secure, and are not otherwise at risk on account of, any indebtedness or other obligation of the General Partner or any director, officer, employee, agent, representative, or Affiliate thereof. Nothing in this Section 4.1(d) shall be deemed to prohibit or limit in any manner the right of the Partnership to lend funds to the General Partner or any Affiliate thereof pursuant to Section 4.1(e)(i). All withdrawals from or charges against such accounts shall be made by the General Partner or by its representatives. Funds of the Partnership may be invested as determined by the General Partner in accordance with the terms and provisions of this Agreement.

(e) Loans to or from General Partner; Contracts with Affiliates; Joint Ventures.

(i) The General Partner or any Affiliate of the General Partner may lend to the Partnership funds needed by the Partnership for such periods of time as the General Partner may determine; *provided, however*, the General Partner or its Affiliate may not charge the Partnership interest at a rate greater than the rate (including points or other financing charges or fees) that would be charged the Partnership (without reference to the General Partner's financial abilities or guaranties) by unrelated lenders on comparable loans. The Partnership shall reimburse the General Partner or its Affiliate, as the case may be, for any costs incurred by the General Partner or that Affiliate in connection with the borrowing of funds obtained by the General Partner or that Affiliate and loaned to the Partnership. The Partnership may loan funds to the General Partner and any member of the Founding Partner Group at the General Partner's sole and exclusive discretion.

(ii) The General Partner or any of its Affiliates may enter into an agreement with the Partnership to render services, including management services, for the Partnership. Any service rendered for the Partnership by the General Partner or any Affiliate thereof shall be on terms that are fair and reasonable to the Partnership.

(iii) The Partnership may Transfer any assets to joint ventures or other partnerships in which it is or thereby becomes a participant upon terms and subject to such conditions consistent with applicable law as the General Partner deems appropriate; provided, however, that the Partnership may not transfer any asset to the General Partner or one of its Affiliates during any NAV Ratio Trigger Period for consideration less than such asset's fair market value.

(f) Outside Activities' Conflicts of Interest. The General Partner or any Affiliate thereof and any director, officer, employee, agent, or representative of the General Partner or any Affiliate thereof shall be entitled to and may have business interests and engage in business activities in addition to those relating to the Partnership, including, without limitation, business interests and activities in direct competition with the Partnership. Neither the Partnership nor any of the Partners shall have any rights by virtue of this Agreement or the partnership relationship created hereby in any business ventures of the General Partner, any Affiliate thereof, or any director, officer, employee, agent, or representative of either the General Partner or any Affiliate thereof.

(g) Resolution of Conflicts of Interest. Unless otherwise expressly provided in this Agreement or any other agreement contemplated herein, whenever a conflict of interest exists or arises between the General Partner or any of its Affiliates, on the one hand, and the Partnership or any Limited Partner, on the other hand, any action taken by the General Partner, in the absence of bad faith by the General Partner, shall not constitute a breach of this Agreement or any other agreement contemplated herein or a breach of any standard of care or duty imposed herein or therein or under the Delaware Act or any other applicable law, rule, or regulation.

(h) Indemnification. The Partnership shall indemnify and hold harmless the General Partner and any director, officer, employee, agent, or representative of the General Partner (collectively,

the “*GP Party*”), against all liabilities, losses, and damages incurred by any of them by reason of any act performed or omitted to be performed in the name of or on behalf of the Partnership, or in connection with the Partnership’s business, including, without limitation, attorneys’ fees and any amounts expended in the settlement of any claims or liabilities, losses, or damages, to the fullest extent permitted by the Delaware Act; *provided, however*, the Partnership shall have no obligation to indemnify and hold harmless a GP Party for any action or inaction that constitutes gross negligence or willful or wanton misconduct. The Partnership, in the sole and unfettered discretion of the General Partner, may indemnify and hold harmless any Limited Partner, employee, agent, or representative of the Partnership, any Person who is or was serving at the request of the Partnership acting through the General Partner as a director, officer, partner, trustee, employee, agent, or representative of another corporation, partnership, joint venture, trust, or other enterprise, and any other Person to the extent determined by the General Partner in its sole and unfettered discretion, but in no event shall such indemnification exceed the indemnification permitted by the Delaware Act. Notwithstanding anything to the contrary in this Section 4.1(h) or elsewhere in this Agreement, no amendment to the Delaware Act after the date of this Agreement shall reduce or limit in any manner the indemnification provided for or permitted by this Section 4.1(h) unless such reduction or limitation is mandated by such amendment for limited partnerships formed prior to the enactment of such amendment. In no event shall Limited Partners be subject to personal liability by reason of the indemnification provisions of this Agreement.

(i) Liability of General Partner.

(i) Neither the General Partner nor its directors, officers, employees, agents, or representatives shall be liable to the Partnership or any Limited Partner for errors in judgment or for any acts or omissions that do not constitute gross negligence or willful or wanton misconduct.

(ii) The General Partner may exercise any of the powers granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through its directors, officers, employees, agents, or representatives, and the General Partner shall not be responsible for any misconduct or negligence on the part of any agent or representative appointed by the General Partner.

(j) Reliance by General Partner.

(i) The General Partner may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(ii) The General Partner may consult with legal counsel, accountants, appraisers, management consultants, investment bankers, and other consultants and advisers selected by it, and any opinion of any such Person as to matters which the General Partner believes to be within such Person’s professional or expert competence shall be full and complete authorization and protection in respect of any action taken or suffered or omitted by the General Partner hereunder in good faith and in accordance with such opinion.

(k) The General Partner may, from time to time, designate one or more Persons to be officers of the Partnership. No officer need be a Partner. Any officers so designated shall have such authority and perform such duties as the General Partner may, from time to time, delegate to them. The General Partner may assign titles to particular officers, including, without limitation, president, vice president, secretary, assistant secretary, treasurer and assistant treasurer. Each officer shall hold office until such Person’s successor shall be duly designated and shall qualify or until such Person’s death or

until such Person shall resign or shall have been removed in the manner hereinafter provided. Any number of offices may be held by the same Person. The salaries or other compensation, if any, of the officers and agents of the Partnership shall be fixed from time to time by the General Partner. Any officer may be removed as such, either with or without cause, by the General Partner whenever in the General Partner's judgment the best interests of the Partnership will be served thereby. Any vacancy occurring in any office of the Partnership may be filled by the General Partner.

4.2. Rights and Obligations of Limited Partners. In addition to the rights and obligations of Limited Partners set forth elsewhere in this Agreement, Limited Partners shall have the following rights and obligations:

(a) Limitation of Liability. Limited Partners shall have no liability under this Agreement except as provided herein or under the Delaware Act.

(b) Management of Business. No Limited Partner shall take part in the control (within the meaning of the Delaware Act) of the Partnership's business, transact any business in the Partnership's name, or have the power to sign documents for or otherwise bind the Partnership other than as specifically set forth in this Agreement.

(c) Return of Capital. No Limited Partner shall be entitled to the withdrawal or return of its Capital Contribution except to the extent, if any, that distributions made pursuant to this Agreement or upon termination of the Partnership may be considered as such by law and then only to the extent provided for in this Agreement.

(d) Second Amended Buy-Sell and Redemption Agreement. Each Limited Partner shall comply with the terms and conditions of the Second Amended Buy-Sell and Redemption Agreement.

(e) Default on Priority Distributions. If the Partnership fails to timely pay Priority Distributions pursuant to Section 3.9(b), and the Partnership does not subsequently make such Priority Distribution within ninety days of its due date, the Class B Limited Partner or the Class C Limited Partner may require the Partnership to liquidate publicly traded securities held by the Partnership or Highland Select Equity Master Fund, L.P., a Delaware limited partnership controlled by the Partnership; provided, however, that the General Partner may in its sole discretion elect instead to liquidate other non-publicly traded securities owned by the Partnership in order to satisfy the Partnership's obligations under Section 3.9(b) and this Section 4.2(e). In either case, Affiliates of the General Partner shall have the right of first offer to purchase any securities liquidated under this Section 4.2(e).

4.3. Transfer of Partnership Interests.

(a) Transfer. No Partnership Interest shall be Transferred, in whole or in part, except in accordance with the terms and conditions set forth in this Section 4.3 and the Second Amended Buy-Sell and Redemption Agreement. Any Transfer or purported Transfer of any Partnership Interest not made in accordance with this Section 4.3 and the Second Amended Buy-Sell and Redemption Agreement shall be null and void. An alleged transferee shall have no right to require any information or account of the Partnership's transactions or to inspect the Partnership's books. The Partnership shall be entitled to treat the alleged transferor of a Partnership Interest as the absolute owner thereof in all respects, and shall incur no liability to any alleged transferee for distributions to the Partner owning that Partnership Interest of record or for allocations of Profits, Losses, deductions or credits or for transmittal of reports and notices required to be given to holders of Partnership Interests.

(b) Transfers by General Partner. The General Partner may Transfer all, but not less than all, of its Partnership Interest to any Person only with the approval of a Majority Interest; provided, however, that the General Partner may not Transfer its Partnership Interest during any NAV Ratio Trigger Period except to the extent such Transfers are for estate planning purposes or resulting from the death of the individual owner of the General Partner. Any Transfer by the General Partner of its Partnership Interest under this Section 4.3(b) to an Affiliate of the General Partner or any other Person shall not constitute a withdrawal of the General Partner under Section 4.5(a), Section 5.1(b), or any other provision of this Agreement. If any such Transfer is deemed to constitute a withdrawal under such provisions or otherwise and results in the dissolution of the Partnership under this Agreement or the laws of any jurisdiction to which the Partnership of this Agreement is subject, the Partners hereby unanimously consent to the reconstitution and continuation of the Partnership immediately following such dissolution, pursuant to Section 5.2.

(c) Transfers by Limited Partners. The Partnership Interest of a Limited Partner may not be Transferred without the consent of the General Partner (which consent may be withheld in the sole and unfettered discretion of the General Partner), and in accordance with the Second Amended Buy-Sell and Redemption Agreement.

(d) Distributions and Allocations in Respect of Transferred Partnership Interests. If any Partnership Interest is Transferred during any Fiscal Year in compliance with the provisions of Article 4 and the Second Amended Buy-Sell and Redemption Agreement, Profits, Losses, and all other items attributable to the transferred interest for that period shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during the period in accordance with Code Section 706(d), using any conventions permitted by law and selected by the General Partner; provided that no allocations shall be made under this Section 4.3(d) that would affect any special allocations made under Section 3.4. All distributions declared on or before the date of that Transfer shall be made to the transferor. Solely for purposes of making such allocations and distributions, the Partnership shall recognize that Transfer not later than the end of the calendar month during which it is given notice of that Transfer; ***provided, however,*** if the Partnership does not receive a notice stating the date that Partnership Interest was Transferred and such other information as the General Partner may reasonably require within thirty (30) days after the end of the Fiscal Year during which the Transfer occurs, then all of such items shall be allocated, and all distributions shall be made, to the person who, according to the books and records of the Partnership, on the last day of the Fiscal Year during which the Transfer occurs, was the owner of the Partnership Interest. Neither the Partnership nor any Partner shall incur any liability for making allocations and distributions in accordance with the provisions of this Section 4.3(d), whether or not any Partner or the Partnership has knowledge of any Transfer of ownership of any Partnership Interest.

(e) Forfeiture of Partnership Interests Pursuant to the Contribution Note. In the event any Class B Limited Partnership Interests are forfeited in favor of the Partnership as a result of any default on the Contribution Note, the Capital Accounts and Percentage Interests associated with such Class B Limited Partnership Interests shall be allocated pro rata among the Class A Partners. The Priority Distributions in Section 3.9(b) made after the date of such forfeiture shall each be reduced by an amount equal to the ratio of the Percentage Interest associated with the Class B Limited Partnership Interest transferred pursuant to this Section 4.3(e) over the aggregate Percentage Interests of all Class B Limited Partnership Interests and Class C Limited Partnership Interests, calculated immediately prior to any forfeiture of such Class B Limited Partnership Interest.

(f) Transfers of Partnership Interests Pursuant to the Purchase Notes. Notwithstanding any other provision in this Agreement, the Partnership shall respect, and the General Partner hereby provides automatic consent for, any transfers (in whole or transfers of partial interests) of

the Class C Limited Partnership Interests, or a portion thereof, if such transfer occurs as a result of a default on the Purchase Notes. Upon the transfer of any Class C Limited Partnership Interest to any member of the Founding Partner Group (or their assigns), such Class C Limited Partnership Interest shall automatically convert to a Class A Partnership Interest. The Priority Distributions in Section 3.9(b) shall each be reduced by an amount equal to the ratio of the Percentage Interest associated with the transferred Class C Limited Partnership Interest over the aggregate Percentage Interests of all Class B Limited Partnership Interests and Class C Limited Partnership Interests, calculated immediately prior to any transfer of such Class C Limited Partnership Interest.

4.4. Issuances of Partnership Interests to New and Existing Partners.

(a) Issuance of Partnership Interests to New Limited Partners. The General Partner may admit one or more additional Persons as Limited Partners (“Additional Limited Partners”) to the Partnership at such times and upon such terms as it deems appropriate in its sole and unfettered discretion; provided, however, that the General Partner may only admit additional Persons as Limited Partners in relation to the issuance of equity incentives to key employees of the Partnership; provided, further that the General Partner may not issue such equity incentives to the extent they entitle the holders, in the aggregate, to a Percentage Interest in excess of twenty percent without the consent of the Class B Limited Partner and the Class C Limited Partner. All Class A Limited Partners, the Class B Limited Partner and the Class C Limited Partner shall be diluted proportionately by the issuance of such limited partnership interests. No Person may be admitted to the Partnership as a Limited Partner until he/she/it executes an Addendum to this Agreement in the form attached as Exhibit B (which may be modified by the General Partner in its sole and unfettered discretion) and an addendum to the Second Amended Buy-Sell and Redemption Agreement.

(b) Issuance of an Additional Partnership Interest to an Existing Partner. The General Partner may issue an additional Partnership Interest to any existing Partner at such times and upon such terms as it deems appropriate in its sole and unfettered discretion. Upon the issuance of an additional Partnership Interest to an existing Partner, the Percentage Interests of the members of the Founding Partner Group shall be diluted proportionately. Any additional Partnership Interest shall be subject to all the terms and conditions of this Agreement and the Second Amended Buy-Sell and Redemption Agreement.

4.5. Withdrawal of General Partner

(a) Option. In the event of the withdrawal of the General Partner from the Partnership, the departing General Partner (the “*Departing Partner*”) shall, at the option of its successor (if any) exercisable prior to the effective date of the departure of that Departing Partner, promptly receive from its successor in exchange for its Partnership Interest as the General Partner, an amount in cash equal to its Capital Account balance, determined as of the effective date of its departure.

(b) Conversion. If the successor to a Departing Partner does not exercise the option described in Section 4.5(a), the Partnership Interest of the Departing Partner as the General Partner of the Partnership shall be converted into a Partnership Interest as a Limited Partner.

4.6. Admission of Substitute Limited Partners and Successor General Partner.

(a) Admission of Substitute Limited Partners. A transferee (which may be the heir or legatee of a Limited Partner) or assignee of a Limited Partner’s Partnership Interest shall be entitled to receive only the distributive share of the Partnership’s Profits, Losses, deductions, and credits attributable to that Partnership Interest. To become a substitute Limited Partner (a “*Substitute Limited Partner*”),

that transferee or assignee shall (i) obtain the consent of the General Partner (which consent may be withheld in the sole and unfettered discretion of the General Partner), (ii) comply with all the requirements of this Agreement and the Second Amended Buy-Sell and Redemption Agreement with respect to the Transfer of the Partnership Interest at issue, and (iii) execute an Addendum to this Agreement in the form attached as Exhibit B (which may be modified by the General Partner in its sole and unfettered discretion) and an addendum to the Second Amended Buy-Sell and Redemption Agreement. Upon admission of a Substitute Limited Partner, that Limited Partner shall be subject to all of the restrictions applicable to, shall assume all of the obligations of, and shall attain the status of a Limited Partner under and pursuant to this Agreement with respect to the Partnership Interest held by that Limited Partner.

(b) Admission of Successor General Partner. A successor General Partner selected pursuant to Section 5.2 or the transferee of or successor to all of the Partnership Interest of the General Partner pursuant to Section 4.3(b) shall be admitted to the Partnership as the General Partner, effective as of the date of the withdrawal or removal of the predecessor General Partner or the date of Transfer of that predecessor's Partnership Interest.

(c) Action by General Partner. In connection with the admission of any substitute Limited Partner or successor General Partner or any additional Limited Partner, the General Partner shall have the authority to take all such actions as it deems necessary or advisable in connection therewith, including the amendment of Exhibit A and the execution and filing with appropriate authorities of any necessary documentation.

ARTICLE 5

DISSOLUTION AND WINDING UP

5.1. Dissolution. The Partnership shall be dissolved upon:

(a) The withdrawal, bankruptcy, or dissolution of the General Partner, or any other event that results in its ceasing to be the General Partner (other than by reason of a Transfer pursuant to Section 4.3(b));

(b) An election to dissolve the Partnership by the General Partner that is approved by the affirmative vote of a Majority Interest; *provided, however*, the General Partner may dissolve the Partnership without the approval of the Limited Partners in order to comply with Section 14 of the Second Amended Buy-Sell and Redemption Agreement; or

(c) Any other event that, under the Delaware Act, would cause its dissolution.

For purposes of this Section 5.1, the bankruptcy of the General Partner shall be deemed to have occurred when the General Partner: (i) makes a general assignment for the benefit of creditors; (ii) files a voluntary bankruptcy petition; (iii) becomes the subject of an order for relief or is declared insolvent in any federal or state bankruptcy or insolvency proceeding; (iv) files a petition or answer seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any law; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the General Partner in a proceeding of the type described in clauses (i) through (iv) of this paragraph; (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the General Partner or of all or any substantial part of the General Partner's properties; or (vii) one hundred twenty (120) days expire after the date of the commencement of a proceeding against the General Partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or

similar relief under any law if the proceeding has not been previously dismissed, or ninety (90) days expire after the date of the appointment, without the General Partner's consent or acquiescence, of a trustee, receiver, or liquidator of the General Partner or of all or any substantial part of the General Partner's properties if the appointment has not previously been vacated or stayed, or ninety (90) days expire after the date of expiration of a stay, if the appointment has not previously been vacated.

5.2. Continuation of the Partnership. Upon the occurrence of an event described in Section 5.1(a), the Partnership shall be deemed to be dissolved and reconstituted if a Majority Interest elect to continue the Partnership within ninety (90) days of that event. If no election to continue the Partnership is made within ninety (90) days of that event, the Partnership shall conduct only activities necessary to wind up its affairs. If an election to continue the Partnership is made upon the occurrence of an event described in Section 5.1(a), then:

(a) Within that ninety (90)-day period a successor General Partner shall be selected by a Majority Interest;

(b) The Partnership shall be deemed to be reconstituted and shall continue until the end of the term for which it is formed unless earlier dissolved in accordance with this Article 5;

(c) The interest of the former General Partner shall be converted to an interest as a Limited Partner; and

(d) All necessary steps shall be taken to amend or restate this Agreement and the Certificate of Limited Partnership, and the successor General Partner may for this purpose amend this Agreement and the Certificate of Limited Partnership, as appropriate, without the consent of any Partner.

5.3. Liquidation. Upon dissolution of the Partnership, unless the Partnership is continued under Section 5.2, the General Partner or, in the event the General Partner has been dissolved, becomes bankrupt (as defined in Section 5.1), or withdraws from the Partnership, a liquidator or liquidating committee selected by a Majority Interest, shall be the Liquidator. The Liquidator (if other than the General Partner) shall be entitled to receive such compensation for its services as may be approved by a Majority Interest. The Liquidator shall agree not to resign at any time without fifteen (15) days' prior written notice and (if other than the General Partner) may be removed at any time, with or without cause, by notice of removal approved by a Majority Interest. Upon dissolution, removal, or resignation of the Liquidator, a successor and substitute Liquidator (who shall have and succeed to all rights, powers, and duties of the original Liquidator) shall within thirty (30) days thereafter be selected by a Majority Interest. The right to appoint a successor or substitute Liquidator in the manner provided herein shall be recurring and continuing for so long as the functions and services of the Liquidator are authorized to continue under the provisions hereof, and every reference herein to the Liquidator shall be deemed to refer also to any such successor or substitute Liquidator appointed in the manner provided herein. Except as expressly provided in this Article 5, the Liquidator appointed in the manner provided herein shall have and may exercise, without further authorization or consent of any of the parties hereto, all of the powers conferred upon the General Partner under the terms of this Agreement (but subject to all of the applicable limitations, contractual and otherwise, upon the exercise of such powers) to the extent necessary or desirable in the good faith judgment of the Liquidator to carry out the duties and functions of the Liquidator hereunder for and during such period of time as shall be reasonably required in the good faith judgment of the Liquidator to complete the winding up and liquidation of the Partnership as provided herein. The Liquidator shall liquidate the assets of the Partnership and apply and distribute the proceeds of such liquidation in the following order of priority, unless otherwise required by mandatory provisions of applicable law:

(a) To the payment of the expenses of the terminating transactions including, without limitation, brokerage commission, legal fees, accounting fees and closing costs;

(b) To the payment of creditors of the Partnership, including Partners, in order of priority provided by law;

(c) To the Partners and assignees to the extent of, and in proportion to, the positive balances in their respective Capital Accounts as provided in Treasury Regulations Section 1.704-1(b)(2)(ii)(b)(2); *provided, however*, the Liquidator may place in escrow a reserve of cash or other assets of the Partnership for contingent liabilities in an amount determined by the Liquidator to be appropriate for such purposes; and

(d) To the Partners in proportion to their respective Percentage Interests.

5.4. Distribution in Kind. Notwithstanding the provisions of Section 5.3 that require the liquidation of the assets of the Partnership, but subject to the order of priorities set forth therein, if on dissolution of the Partnership the Liquidator determines that an immediate sale of part or all of the Partnership's assets would be impractical or would cause undue loss to the Partners and assignees, the Liquidator may defer for a reasonable time the liquidation of any assets except those necessary to satisfy liabilities of the Partnership (other than those to Partners) and/or may distribute to the Partners and assignees, in lieu of cash, as tenants in common and in accordance with the provisions of Section 5.3, undivided interests in such Partnership assets as the Liquidator deems not suitable for liquidation. Any such distributions in kind shall be subject to such conditions relating to the disposition and management of such properties as the Liquidator deems reasonable and equitable and to any joint operating agreements or other agreements governing the operation of such properties at such time. The Liquidator shall determine the fair market value of any property distributed in kind using such reasonable method of valuation as it may adopt.

5.5. Cancellation of Certificate of Limited Partnership. Upon the completion of the distribution of Partnership property as provided in Sections 5.3 and 5.4, the Partnership shall be terminated, and the Liquidator (or the General Partner and Limited Partners if necessary) shall cause the cancellation of the Certificate of Limited Partnership in the State of Delaware and of all qualifications and registrations of the Partnership as a foreign limited partnership in jurisdictions other **than** the State of Delaware and shall take such other actions as may be necessary to terminate the Partnership.

5.6. Return of Capital. The General Partner shall not be personally liable for the return of the Capital Contributions of Limited Partners, or any portion thereof, it being expressly understood that any such return shall be **made** solely from Partnership assets.

5.7. Waiver of Partition. Each Partner hereby waives any rights to partition of the Partnership property.

ARTICLE 6

GENERAL PROVISIONS

6.1. Amendments to Agreement. The General Partner may amend this Agreement without the consent of any Partner if the General Partner reasonably determines that such amendment is necessary and appropriate; *provided, however, any* action taken by the General Partner shall be subject to its fiduciary duties to the Limited Partners under the Delaware Act; provided further that any amendments

that adversely affect the Class B Limited Partner or the Class C Limited Partner may only be made with the consent of such Partner adversely affected.

6.2. Addresses and Notices. Any notice, demand, request, or report required or permitted to be given or made to a Partner under this Agreement shall be in writing and shall be deemed given or made when delivered in person or when sent by United States registered or certified mail to the Partner at his/her/its address as shown on the records of the Partnership, regardless of any claim of any Person who may have an interest in any Partnership Interest by reason of an assignment or otherwise.

6.3. Titles and Captions. All article and section titles and captions in the Agreement are for convenience only, shall not be deemed part of this Agreement, and in no way shall define, limit, extend, or describe the scope or intent of any provisions hereof. Except as specifically provided otherwise, references to “Articles,” “Sections” and “Exhibits” are to “Articles,” “Sections” and “Exhibits” of this Agreement. All Exhibits hereto are incorporated herein by reference.

6.4. Pronouns and Plurals. Whenever the context may require, any pronoun used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns, pronouns, and verbs shall include the plural and vice versa.

6.5. Further Action. The parties shall execute all documents, provide all information, and take or refrain from taking all actions as may be necessary or appropriate to achieve the purposes of this Agreement.

6.6. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives, and permitted assigns.

6.7. Integration. This Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto.

6.8. Creditors. None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Partnership.

6.9. Waiver. No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any such breach or any other covenant, duty, agreement, or condition.

6.10. Counterparts. This agreement may be executed in counterparts, all of which together shall constitute one agreement binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart.

6.11. Applicable Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Delaware, without regard to the principles of conflicts of law.

6.12. Invalidity of Provisions. If any provision of this Agreement is declared or found to be illegal, unenforceable, or void, in whole or in part, then the parties shall be relieved of all obligations arising under that provision, but only to the extent that it is illegal, unenforceable, or void, it being the intent and agreement of the parties that this Agreement shall be deemed amended by modifying that provision to the extent necessary to make it legal and enforceable while preserving its intent or, if that is

not possible, by substituting therefor another provision that is legal and enforceable and achieves the same objectives.

6.13. General Partner Discretion. Whenever the General Partner may use its sole discretion, the General Partner may consider any items it deems relevant, including its own interest and that of its affiliates.

6.14. Mandatory Arbitration. In the event there is an unresolved legal dispute between the parties and/or any of their respective officers, directors, partners, employees, agents, affiliates or other representatives that involves legal rights or remedies arising from this Agreement, the parties agree to submit their dispute to binding arbitration under the authority of the Federal Arbitration Act; provided, however, that the Partnership or such applicable affiliate thereof may pursue a temporary restraining order and /or preliminary injunctive relief in connection with any confidentiality covenants or agreements binding on the other party, with related expedited discovery for the parties, in a court of law, and thereafter, require arbitration of all issues of final relief. The arbitration will be conducted by the American Arbitration Association, or another mutually agreeable arbitration service. A panel of three arbitrators will preside over the arbitration and will together deliberate, decide and issue the final award. The arbitrators shall be duly licensed to practice law in the state of Texas. The discovery process shall be limited to the following: Each side shall be permitted no more than (i) two party depositions of six hours each, each deposition to be taken pursuant to the Texas Rules of Civil Procedure; (ii) one non-party deposition of six hours; (iii) twenty-five interrogatories; (iv) twenty-five requests for admissions; (v) ten request for production (in response, the producing party shall not be obligated to produce in excess of 5,000 total pages of documents, including electronic documents); and (vi) one request for disclosure pursuant to the Texas Rules of Civil Procedure. Any discovery not specifically provided for in this paragraph, whether to parties or non-parties, shall not be permitted. The arbitrators shall be required to state in a written opinion all facts and conclusions of law relied upon to support any decision rendered. The arbitrators will not have the authority to render a decision that contains an outcome based on error of state or federal law or to fashion a cause of action or remedy not otherwise provided for under applicable state or federal law. Any dispute over whether the arbitrators have failed to comply with the foregoing will be resolved by summary judgment in a court of law. In all other respects, the arbitration process will be conducted in accordance with the American Arbitration Association's dispute resolution rules or other mutually agreeable arbitration services rules. All proceedings shall be conducted in Dallas, Texas or another mutually agreeable site. Each party shall bear its own attorneys fees, costs and expenses, including any costs of experts, witnesses and /or travel, subject to a final arbitration award on who should bear costs and fees. The duty to arbitrate described above shall survive the termination of this Agreement. Except as otherwise provided above, the parties hereby waive trial in a court of law or by jury. All other rights, remedies, statutes of limitation and defenses applicable to claims asserted in a court of law will apply in the arbitration.

*Remainder of Page intentionally Left Blank.
Signature Page Follows.*

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date and year first written above.

GENERAL PARTNER:

STRAND ADVISORS, INC.,
a Delaware corporation

By: _____

James D. Dondero,
President

LIMITED PARTNERS:

THE DUGABOY INVESTMENT TRUST

By: _____

Name: Nancy M. Dondero
Its: Trustee

**THE MARK AND PAMELA OKADA FAMILY
TRUST – EXEMPT TRUST #1**

By: _____

Name: Lawrence Tonomura
Its: Trustee

**THE MARK AND PAMELA OKADA FAMILY
TRUST – EXEMPT TRUST #2**

By: _____

Name: Lawrence Tonomura
Its: Trustee

MARK K. OKADA

Mark K. Okada

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date and year first written above.

GENERAL PARTNER:

STRAND ADVISORS, INC.,
a Delaware corporation


By: _____
James D. Dondero,
President

LIMITED PARTNERS:

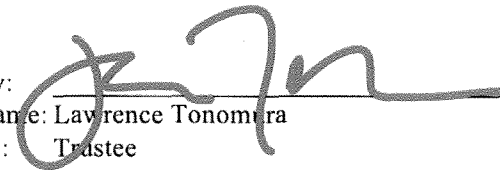
THE DUGABOY INVESTMENT TRUST

By: _____
Name: Nancy M. Dondero
Its: Trustee

**THE MARK AND PAMELA OKADA FAMILY
TRUST – EXEMPT TRUST #1**

By:  _____
Name: Lawrence Tonomura
Its: Trustee

**THE MARK AND PAMELA OKADA FAMILY
TRUST – EXEMPT TRUST #2**

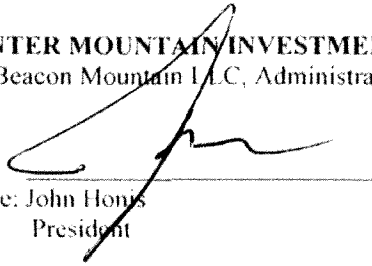
By:  _____
Name: Lawrence Tonomura
Its: Trustee

MARK K. OKADA

Mark K. Okada

HUNTER MOUNTAIN INVESTMENT TRUST

By: Beacon Mountain LLC, Administrator

By: 
Name: John Honis
Its: President

*Signature Page to Fourth Amended and Restated
Agreement of Limited Partnership*

EXHIBIT A

<u>CLASS A PARTNERS</u>	<u>Percentage Interest</u>	
	By Class	Effective %
<u>GENERAL PARTNER:</u>		
Strand Advisors	0.5573%	0.2508%
<u>LIMITED PARTNERS:</u>		
The Dugaboy Investment Trust	74.4426%	0.1866%
Mark K. Okada	19.4268%	0.0487%
The Mark and Pamela Okada Family Trust - Exempt Trust #1	3.9013%	0.0098%
The Mark and Pamela Okada Family Trust - Exempt Trust #2	1.6720%	0.0042%
Total Class A Percentage Interest	100.0000%	0.500%
<u>CLASS B LIMITED PARTNERS</u>		
Hunter Mountain Investment Trust	100.0000%	55.0000%
<u>CLASS C LIMITED PARTNERS</u>		
Hunter Mountain Investment Trust	100.0000%	44.500%
<u>PROFIT AND LOSS AMONG CLASSES</u>		
Class A Partners	0.5000%	
Class B Partners	55.0000%	
Class C Partners	44.5000%	

EXHIBIT B

**ADDENDUM
TO THE
FOURTH AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP
OF
HIGHLAND CAPITAL MANAGEMENT, L.P.**

THIS ADDENDUM (this “**Addendum**”) to that certain Fourth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated December 24, 2015, to be effective as of December 24, 2015, as amended from time to time (the “**Agreement**”), is made and entered into as of the ___ day of _____, 20__, by and between Strand Advisors, Inc., as the sole General Partner (the “**General Partner**”) of Highland Capital Management, L.P. (the “**Partnership**”) and _____ (“_____”) (except as otherwise provided herein, all capitalized terms used herein shall have the meanings set forth in the Agreement).

RECITALS:

WHEREAS, the General Partner, in its sole and unfettered discretion, and without the consent of any Limited Partner, has the authority under (i) Section 4.4 of the Agreement to admit Additional Limited Partners, (ii) Section 4.6 of the Agreement to admit Substitute Limited Partners and (iii) Section 6.1 of the Agreement to amend the Agreement;

WHEREAS, the General Partner desires to admit _____ as a Class ___ Limited Partner holding a ___% Percentage Interest in the Partnership as of the date hereof;

WHEREAS, _____ desires to become a Class ___ Limited Partner and be bound by the terms and conditions of the Agreement; and

WHEREAS, the General Partner desires to amend the Agreement to add _____ as a party thereto.

AGREEMENT:

RESOLVED, as a condition to receiving a Partnership Interest in the Partnership, _____ acknowledges and agrees that he/she/it (i) has received and read a copy of the Agreement, (ii) shall be bound by the terms and conditions of the Agreement; and (iii) shall promptly execute an addendum to the Second Amended Buy-Sell and Redemption Agreement; and be it

FURTHER RESOLVED, the General Partner hereby amends the Agreement to add _____ as a Limited Partner, and the General Partner shall attach this Addendum to the Agreement and make it a part thereof; and be it

FURTHER RESOLVED, this Addendum may be executed in any number of counterparts, all of which together shall constitute one Addendum binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the day and year above written.

GENERAL PARTNER:

STRAND ADVISORS, INC.

By: _____
Name: _____
Title: _____

NEW LIMITED PARTNER:

[_____]

AGREED AND ACCEPTED:

In consideration of the terms of this Addendum and the Agreement, in consideration of the Partnership's allowing the above signed Person to become a Limited Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms and conditions of the Agreement as though a party thereto.

SPOUSE OF NEW LIMITED PARTNER:

[_____]

EXHIBIT 5

**Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization
of Highland Capital Management, L.P. (As Modified)**

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)

Ira D. Kharasch (CA Bar No. 109084) (*admitted pro hac vice*)

Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)

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Tel: (972) 755-7100

Fax: (972) 755-7110

Counsel for the Debtor and Debtor-in-Possession

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,¹

Debtor.

)
) Chapter 11
)
) Case No. 19-34054-sgj11
)
)
)
)

**DEBTOR'S NOTICE OF FILING OF PLAN SUPPLEMENT TO THE FIFTH
AMENDED PLAN OF REORGANIZATION OF HIGHLAND CAPITAL
MANAGEMENT, L.P. (AS MODIFIED)**

PLEASE TAKE NOTICE that on January 22, 2021, the Debtor filed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* [Docket No. 1808]

¹ The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



(as subsequently amended and/or modified, the “Plan”).²

PLEASE TAKE FURTHER NOTICE that Highland Capital Management, L.P., the above-captioned debtor and debtor-in-possession (the “Debtor”), filed the *Disclosure Statement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* on November 24, 2020 [Docket No. 1473] (the “Disclosure Statement”).

PLEASE TAKE FURTHER NOTICE that attached as Exhibit C to the Disclosure Statement was the Debtor’s Liquidation Analysis/Financial Projections.

PLEASE TAKE FURTHER NOTICE that attached hereto as **Exhibit A** are the Debtor’s amended Liquidation Analysis/Financial Projections (the “Amended Liquidation Analysis/Financial Projections”), which supersede the Liquidation Analysis/Financial Projections filed on November 24, 2020, with the Disclosure Statement.

PLEASE TAKE FURTHER NOTICE that a prior version of the Amended Liquidation Analysis/Financial Projections was provided to parties in interests on January 28, 2021, in advance of the deposition of James P. Seery, Jr., the Debtor’s Chief Executive Officer and Chief Restructuring Officer, and that the Amended Liquidation Analysis/Financial Projections differ from such version in two respects:

- The Amended Liquidation Analysis/Financial Projections include the settlement in principle between UBS and the Debtor, which provides for UBS receiving a Class 8 (General Unsecured Claim) of \$50,000,000 and a Class 9 (Subordinated Claim) of \$25,000,000. The prior Liquidation Analysis/Financial Projections included a Class 8 (General Unsecured Claim) in the amount of \$94,761,076 pursuant to the Court’s order temporarily allowing the UBS claim in that amount for voting purposes; and
- The Debtor inadvertently understated the aggregate amount of Class 8 (General Unsecured Claims) by \$4,392,937, which error is corrected in the Amended Liquidation Analysis/Financial Projections.

PLEASE TAKE NOTICE that the Debtor hereby files the documents included herewith

² All capitalized terms used but not defined herein have the meanings given to them in the Plan.

as **Exhibits DD-FF** (collectively, the “**Fifth Plan Supplement**”) as Exhibits DD-FF to the Plan:

Exhibit DD: Schedule of Retained Causes of Action (supersedes Exhibits E, L, and Q);

Exhibit EE: Revisions to Form of Claimant Trust Agreement (amends Exhibit R); and

Exhibit FF: Schedule of Contracts and Leases to Be Assumed (supersedes Exhibit H, I, and X).³

PLEASE TAKE NOTICE that the Debtor hereby gives notice of supplemental amendments (the “**Plan Amendments**”) to the Plan, which are set forth in the redlined excerpts of the Plan attached hereto as **Exhibit B**.

[Remainder of Page Intentionally Blank]

³ The Schedule of Contracts and Leases includes an agreement with Bloomberg Finance, L.P. (“**Bloomberg**”). The Debtor is currently in discussions with Bloomberg regarding the assumption of such agreement.

Dated: February 1, 2021.

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No.143717)
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-and-

HAYWARD PLLC

/s/ Zachery Z. Annable

Melissa S. Hayward
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Zachery Z. Annable
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ZAnnable@HaywardFirm.com
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Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for the Debtor and Debtor-in-Possession

EXHIBIT A

Highland Capital Management, L.P.
Disclaimer For Financial Projections

This document includes financial projections for July 2020 through December 2022 (the “Projections”) for Highland Capital Management, L.P. (“Company”). These Projections have been prepared by DSI with input from management at the Company. The historical information utilized in these Projections has not been audited or reviewed for accuracy by DSI.

This document includes certain statements, estimates and forecasts provided by the Company with respect to the Company’s anticipated future performance. These estimates and forecasts contain significant elements of subjective judgment and analysis that may or may not prove to be accurate or correct. There can be no assurance that these statements, estimates and forecasts will be attained and actual outcomes and results may differ materially from what is estimated or forecast herein.

These Projections should not be regarded as a representation of DSI that the projected results will be achieved.

Management may update or supplement these Projections in the future, however, DSI expressly disclaims any obligation to update its report.

These Projections were not prepared with a view toward compliance with published guidelines of the Securities and Exchange Commission or the American Institute of Certified Public Accountants regarding historical financial statements, projections or forecasts.

Highland Capital Management, L.P.
Statement of Assumptions

- A. Plan effective date is March 1, 2021
- B. All investment assets are sold by December 31, 2022.
- C. All demand notes are collected in the year 2021; 3 term notes defaulted and have been demanded based on default provisions; payment estimated in 2021
- D. Dugaboy term note with maturity date beyond 12/31/2022 are sold in Q1 2022; in the interim interest income and principal payments are not collected due to prepayment on note
- E. Fixed assets currently used in daily operations are sold in June 2021 for \$0
- F. Highland bonus plan has been terminated in accordance with its terms. Accrual for employee bonuses as of January 2021 are reversed and not paid.
- G. All Management advisory or shared service contracts are terminated on their terms by the effective date or shortly thereafter
- H. Post-effective date, the reorganized Debtor would retain up to ten HCMLP employees (or hire similar employees) to help monetize the remaining assets.
- I. Litigation Trustee budget is \$6,500,000.
- J. Unrealized gains or losses are not recorded on a monthly basis; all gains or losses are recorded as realized gains or losses upon sale of asset.
- K. Plan does not provide for payment of interest to Class 8 holders of general unsecured claims, as set forth in the Plan. If holders of general unsecured claims receive 100% of their allowed claims, they would then be entitled to receive interest at the federal judgement rate, prior to any funds being available for claims or interest of junior priority.
- L. Plan assumes zero allowed claims for IFA and Hunter Mountain Investment Trust ("HM").
- M. Claim amounts listed in Plan vs. Liquidation schedule are subject to change; claim amounts in Class 8 assume \$0 for IFA and HM, \$50.0 million for UBS and \$45 million HV. Assumes RCP claims will offset against HCMLP's interest in fund and will not be paid from Debtor assets
- N. With the exception of Class 2 - Frontier, Classes 1-7 will be paid in full within 30 days of effective date.
- O. Class 7 payout limited to 85% of each individual creditor claim or in the aggregate \$13.15 million. Plan currently projects Class 7 payout of \$10.3 million.
- P. See below for Class 8 estimated payout schedule; payout is subject to certain assets being monetized by payout date (no Plan requirement to do so):
 - o By September 30, 2021 - \$50,000,000
 - o By March 31, 2022 – additional \$50,000,000
 - o By June 30, 2022 – additional \$25,000,000
 - o All remaining proceeds are assumed to be paid out on or soon after all remaining assets are monetized.
- Q. Assumptions subject to revision based on business decision and performance of the business

Highland Capital Management, L.P.
Plan Analysis Vs. Liquidation Analysis
(US \$000's)

	Plan Analysis	Liquidation Analysis
Estimated cash on hand at 1/31/2020	\$ 24,290	\$ 24,290
Estimated proceeds from monetization of assets [1][2]	257,941	191,946
Estimated expenses through final distribution[1][3]	(59,573)	(41,488)
Total estimated \$ available for distribution	222,658	174,748
Less: Claims paid in full		
Unclassified [4]	(1,080)	(1,080)
Administrative claims [5]	(10,574)	(10,574)
Class 1 - Jefferies Secured Claim	-	-
Class 2 - Frontier Secured Claim [6]	(5,781)	(5,781)
Class 3 - Other Secured Claims	(62)	(62)
Class 4 – Priority Non-Tax Claims	(16)	(16)
Class 5 - Retained Employee Claims	-	-
Class 6 - PTO Claims [5]	-	-
Class 7 – Convenience Claims [7][8]	(10,280)	-
Subtotal	(27,793)	(17,514)
Estimated amount remaining for distribution to general unsecured claims	194,865	157,235
% Distribution to Class 7 (Class 7 claims included in Class 8 in Liquidation scenario)	85.00%	0.00%
Class 8 – General Unsecured Claims [8][10]	273,219	286,100
Subtotal	273,219	286,100
% Distribution to general unsecured claims	71.32%	54.96%
Estimated amount remaining for distribution	-	-
Class 9 – Subordinated Claims	no distribution	no distribution
Class 10 – Class B/C Limited Partnership Interests	no distribution	no distribution
Class 11 – Class A Limited Partnership Interest	no distribution	no distribution

Footnotes:

[1] Assumes chapter 7 Trustee will not be able to achieve same sales proceeds as Claimant Trustee

Assumes Chapter 7 Trustee engages new professionals to help liquidate assets and terminates any management agreements with funds or CLOS

[2] Sale of investment assets, sale of fixed assets, collection of accounts receivable and interest receivable; Plan includes revenue from managing CLOs

[3] Estimated expenses through final distribution exclude non-cash expenses:

Depreciation of \$462 thousand in 2021; Bad debt of \$124K in 2021

[4] Unclassified claims include payments for priority tax claims and settlements with previously approved by the Bankruptcy Court

[5] Represents \$4.7 million in unpaid professional fees, \$4.5 million in timing of payments to vendors and \$1.2 million to pay PTO

[6] Debtor will pay all unpaid interest estimated at \$253 thousand of Frontier on effective date and continue to pay interest quarterly at 5.25% until Frontier's collateral is sold

[7] Claims payout limited to 85% of each individual creditor claim or limited to a total class payout of \$13.15 million

[8] Plan: Class 7 includes \$1.2 million estimate for aggregate contract rejections damage; Liquidation Class 8 includes \$2.0 million for estimated rejection damages

[10] Class estimates \$0 allowed claim for the following creditors: IFA and HM; assumes RCP claims offset against HCMLP interest in RCP fund

UBS claim included at \$50.0 million.

Notes:

All claim amounts are estimated as of February 1, 2020 and subject to change

Highland Capital Management, L.P.
Balance Sheet
(US \$000's)

	Actual Jun-20	Actual Sep-20	Forecast ---> Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22
Assets											
Cash and Cash Equivalents	\$ 14,994	\$ 5,888	\$ 31,047	\$ 10,328	\$ 40,063	\$ 42,833	\$ 135,137	\$ 80,733	\$ 72,238	\$ 69,368	\$ -
Other Current Assets	13,182	13,651	13,784	15,172	14,671	14,220	9,943	8,268	8,417	8,567	-
Investment Assets	320,912	305,961	283,812	280,946	233,234	171,174	47,503	47,503	25,888	25,888	-
Net Fixed Assets	3,055	2,823	2,592	1,348	-	-	-	-	-	-	-
TOTAL ASSETS	\$ 352,142	\$ 328,323	\$ 331,235	\$ 307,793	\$ 287,968	\$ 228,227	\$ 192,583	\$ 136,504	\$ 106,542	\$ 103,823	\$ -
Liabilities											
Post-petition Liabilities	\$ 142,730	\$ 135,597	\$ 131,230	\$ 12,891	\$ 10,249	\$ 10,503	\$ -	\$ -	\$ -	\$ -	\$ -
Pre-petition Liabilities	9,861	9,884	10,000	-	-	-	-	-	-	-	-
Claims											
Unclassified	-	-	-	-	-	-	-	-	-	-	-
Class 1 – Jefferies Secured Claim	-	-	-	-	-	-	-	-	-	-	-
Class 2 - Frontier Secured Claim	-	-	-	5,528	-	-	-	-	-	-	-
Class 3 - Other Secured Claims	-	-	-	-	-	-	-	-	-	-	-
Class 4 – Priority Non-Tax Claims	-	-	-	-	-	-	-	-	-	-	-
Class 5 – Retained Employee Claims	-	-	-	-	-	-	-	-	-	-	-
Class 6 - PTO Claims	-	-	-	-	-	-	-	-	-	-	-
Class 7 – Convenience Claims	-	-	-	-	-	-	-	-	-	-	-
Class 8 – General Unsecured Claims	-	-	-	273,219	273,219	223,219	223,219	173,219	148,219	148,219	78,354
Class 9 – Subordinated Claims [1]	-	-	-	-	-	-	-	-	-	-	-
Class 10 – Class B/C Limited Partnership Interests	-	-	-	-	-	-	-	-	-	-	-
Class 11 – Class A Limited Partnership Interests	-	-	-	-	-	-	-	-	-	-	-
Claim Payable	9,861	9,884	10,000	278,747	273,219	223,219	223,219	173,219	148,219	148,219	78,354
TOTAL LIABILITIES	\$ 152,591	\$ 145,481	\$ 141,230	\$ 291,639	\$ 283,468	\$ 233,723	\$ 223,219	\$ 173,219	\$ 148,219	\$ 148,219	\$ 78,354
Partners' Capital	199,551	182,842	190,005	16,154	4,500	(5,495)	(30,636)	(36,715)	(41,677)	(44,396)	(78,354)
TOTAL LIABILITIES AND PARTNERS' CAPITAL	\$ 352,142	\$ 328,323	\$ 331,235	\$ 307,793	\$ 287,968	\$ 228,227	\$ 192,583	\$ 136,504	\$ 106,543	\$ 103,823	\$ -

[1] Class 9 has \$60 million of subordinated claims; Debtor anticipates no distributions to Class 9

Highland Capital Management, L.P.
Profit/Loss
(US \$000's)

	Actual Jan 2020 to June 2020 Total	Actual 3 month ended Sept 2020	Forecast ---> 3 month ended Dec 2020	Total 2020	3 month ended Mar 2021	3 month ended Jun 2021	3 month ended Sept 2021	3 month ended Dec 2021	Total 2021
Revenue									
Management Fees	\$ 6,572	\$ 1,949	\$ 2,804	\$ 11,325	\$ 1,329	\$ 856	\$ 856	\$ 856	\$ 3,897
Shared Service Fees	7,672	3,765	3,788	15,225	1,373	45	45	-	1,463
Other Income	3,126	538	340	4,004	316	274	-	-	591
Total revenue	\$ 17,370	\$ 6,252	\$ 6,931	\$ 30,554	\$ 3,018	\$ 1,176	\$ 901	\$ 856	\$ 5,951
Operating Expenses [1]	13,328	9,171	9,399	31,899	12,168	4,897	3,973	3,333	24,371
Income/(loss) From Operations	\$ 4,042	\$ (2,918)	\$ (2,468)	\$ (1,345)	\$ (9,149)	\$ (3,722)	\$ (3,072)	\$ (2,477)	\$ (18,420)
Professional Fees	17,522	7,707	8,351	33,581	7,478	6,583	2,268	1,810	18,138
Other Income/(Expenses) [2]	2,302	1,518	1,059	4,879	(156,042)	326	(93)	29	(155,781)
Operating Gain/(Loss)	\$ (11,178)	\$ (9,107)	\$ (9,761)	\$ (30,046)	\$ (172,669)	\$ (9,978)	\$ (5,433)	\$ (4,259)	\$ (192,339)
Realized and Unrealized Gain/(Loss)									
Other Realized Gains/(Loss)	-	-	-	-	(1,013)	522	-	-	(491)
Net Realized Gain/(Loss) on Sale of Investment	(28,418)	1,549	(8,850)	(35,719)	(168)	(2,198)	(4,563)	(7,581)	(14,510)
Net Change in Unrealized Gain/(Loss) of Investments	(29,929)	(7,450)	4,523	(32,857)	-	-	-	-	-
Net Realized Gain /(Loss) from Equity Method Investees	-	-	(364)	(364)	-	-	-	(13,301)	(13,301)
Net Change in Unrealized Gain /(Loss) from Equity Method Investees	(80,782)	(1,700)	-	(82,482)	-	-	-	-	-
Total Realized and Unrealized Gain/(Loss)	\$ (139,129)	\$ (7,601)	\$ (4,692)	\$ (151,422)	\$ (1,182)	\$ (1,675)	\$ (4,563)	\$ (20,882)	\$ (28,302)
Net Income	\$ (150,307)	\$ (16,708)	\$ (14,453)	\$ (181,468)	\$ (173,851)	\$ (11,654)	\$ (9,996)	\$ (25,141)	\$ (220,641)

Footnotes:

[1] Operating expenses include an adjustment in January 2021 to account for expenses that have not been accrued or paid prior to effective date.

[2] Other income and expenses of \$197.3 million in Q1 2021 includes:

[a] \$209.7 million was expensed to record for the increase of allowed claims.

[b] Income of \$11.7 million for the accrued, but unpaid payroll liability related to the Debtor's deferred bonus programs amount written-off.

Highland Capital Management, L.P.
Profit/Loss
(US \$000's)

	Forecast --->					
	3 month ended Mar 2022	3 month ended Jun 2022	3 month ended Sept 2022	3 month ended Dec 2022	Total 2022	Plan
Revenue						
Management Fees	\$ 580	\$ 580	\$ 580	\$ 580	\$ 2,318	\$ 6,215
Shared Service Fees	-	-	-	-	-	1,463
Other Income	-	-	-	-	-	591
Total revenue	\$ 580	\$ 580	\$ 580	\$ 580	\$ 2,318	\$ 8,269
Operating Expenses	3,635	2,679	1,739	6,425	14,478	38,849
Income/(loss) From Operations	\$ (3,056)	\$ (2,099)	\$ (1,159)	\$ (5,846)	\$ (12,160)	\$ (30,580)
Professional Fees	2,921	2,761	1,461	2,176	9,318	27,455
Other Income/(Expenses)	(103)	(101)	(100)	(350)	(654)	(156,434)
Operating Gain/(Loss)	\$ (6,079)	\$ (4,961)	\$ (2,719)	\$ (8,371)	\$ (22,131)	\$ (214,470)
Realized and Unrealized Gain/(Loss)						
Other Realized Gains/(Loss)	-	-	-	(25,587)	(25,587)	(26,078)
Net Realized Gain/(Loss) on Sale of Investment	-	-	-	-	-	(14,510)
Net Change in Unrealized Gain/(Loss) of Investments	-	-	-	-	-	-
Net Realized Gain /(Loss) from Equity Method Investees	-	-	-	-	-	(13,301)
Net Change in Unrealized Gain /(Loss) from Equity Method Investees	-	-	-	-	-	-
Total Realized and Unrealized Gain/(Loss)	\$ -	\$ -	\$ -	\$ (25,587)	\$ (25,587)	\$ (53,889)
Net Income	\$ (6,079)	\$ (4,961)	\$ (2,719)	\$ (33,958)	\$ (47,718)	\$ (268,359)

Highland Capital Management, L.P.**Cash Flow Indirect****(US \$000's)**

	Forecast ---->									
	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22
Net (Loss) Income	\$ (16,708)	\$ (14,453)	\$ (173,851)	\$ (11,654)	\$ (9,996)	\$ (25,141)	\$ (6,079)	\$ (4,961)	\$ (2,719)	\$ (33,958)
Cash Flow from Operating Activity										
(Increase) / Decrease in Cash										
Depreciation and amortization	231	231	231	231	-	-	-	-	-	-
Other realized (gain)/ loss	-	-	1,013	(522)	-	-	-	-	-	25,587
Investment realized (gain)/ loss	(1,549)	9,214	168	2,198	4,563	20,882	-	-	-	-
Unrealized (gain) / loss	(9,150)	4,523	-	-	-	-	-	-	-	-
(Increase) Decrease in Current Assets	(470)	(133)	(1,388)	501	450	4,277	1,675	(149)	(150)	908
Increase (Decrease) in Current Liabilities	(7,110)	(4,251)	(44,172)	(2,643)	255	(10,503)	-	-	-	-
Net Cash Increase / (Decrease) - Operating Activities	(34,757)	(4,868)	(217,998)	(11,889)	(4,727)	(10,485)	(4,404)	(5,110)	(2,870)	(7,463)
Cash Flow From Investing Activities										
Proceeds from Sale of Fixed Assets	-	-	-	-	-	-	-	-	-	-
Proceeds from Investment Assets	25,650	30,027	2,698	47,152	57,498	102,788	-	21,616	-	7,960
Net Cash Increase / (Decrease) - Investing Activities	25,650	30,027	2,698	47,152	57,498	102,788	-	21,616	-	7,960
Cash Flow from Financing Activities										
Claims payable	-	-	(73,997)	-	-	-	-	-	-	-
Claim reclasses/(paid)	-	-	278,747	(5,528)	(50,000)	-	(50,000)	(25,000)	-	(69,865)
Maple Avenue Holdings	-	-	(4,975)	-	-	-	-	-	-	-
Frontier Note	-	-	(5,195)	-	-	-	-	-	-	-
Net Cash Increase / (Decrease) - Financing Activities	-	-	194,580	(5,528)	(50,000)	-	(50,000)	(25,000)	-	(69,865)
Net Change in Cash	\$ (9,107)	\$ 25,159	\$ (20,719)	\$ 29,735	\$ 2,770	\$ 92,303	\$ (54,404)	\$ (8,495)	\$ (2,870)	\$ (69,368)
Beginning Cash	14,994	5,888	31,047	10,328	40,063	42,833	135,137	80,733	72,238	69,368
Ending Cash	\$ 5,888	\$ 31,047	\$ 10,328	\$ 40,063	\$ 42,833	\$ 135,137	\$ 80,733	\$ 72,238	\$ 69,368	\$ -

EXHIBIT B

61. “*Estate Claims*” has the meaning given to it in Exhibit A to the *Notice of Final Term Sheet* [D.I. 354].

62. “*Exculpated Parties*” means, collectively, (i) the Debtor and its successors and assigns, ~~direct and indirect majority-owned subsidiaries, and the Managed Funds~~, (ii) the Employees, (iii) Strand, (iv) the Independent Directors, (v) the Committee, (vi) the members of the Committee (in their official capacities), (vii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (viii) the CEO/CRO; and (ix) the Related Persons of each of the parties listed in (iv) through (viii); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), NexBank, SSB (and any of its subsidiaries), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Exculpated Party.”

63. “*Executory Contract*” means a contract to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

64. “*Exhibit*” means an exhibit annexed hereto or to the Disclosure Statement (as such exhibits are amended, modified or otherwise supplemented from time to time), which are incorporated by reference herein.

65. “*Federal Judgment Rate*” means the post-judgment interest rate set forth in 28 U.S.C. § 1961 as of the Effective Date.

66. “*File*” or “*Filed*” or “*Filing*” means file, filed or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Case.

67. “*Final Order*” means an order or judgment of the Bankruptcy Court, which is in full force and effect, and as to which the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument or rehearing shall then be pending or as to which any right to appeal, petition for *certiorari*, new trial, reargument, or rehearing shall have been waived in writing in form and substance satisfactory to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, or, in the event that an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order of the Bankruptcy Court shall have been determined by the highest court to which such order was appealed, or *certiorari*, new trial, reargument or rehearing shall have been denied and the time to take any further appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be Filed with respect to such order shall not preclude such order from being a Final Order.

126. “*Strand*” means Strand Advisors, Inc., the Debtor’s general partner.

127. “*Sub-Servicer*” means a third-party selected by the Claimant Trustee to service or sub-service the Reorganized Debtor Assets.

128. “*Sub-Servicer Agreement*” means the agreement that may be entered into providing for the servicing of the Reorganized Debtor Assets by the Sub-Servicer.

129. “*Subordinated Claim*” means any Claim that is subordinated to the Convenience Claims and General Unsecured Claims pursuant to ~~11 U.S.C. § 510 or an~~ order entered by the Bankruptcy Court (including any other court having jurisdiction over the Chapter 11 Case) after notice and a hearing.

130. “*Subordinated Claimant Trust Interests*” means the Claimant Trust Interests to be distributed to Holders of Allowed Subordinated Claims under the Plan, which such interests shall be subordinated in right and priority to the Claimant Trust Interests distributed to Holders of Allowed General Unsecured Claims as provided in the Claimant Trust Agreement.

131. “*Trust Distribution*” means the transfer of Cash or other property by the Claimant Trustee to the Claimant Trust Beneficiaries.

132. “*Trustees*” means, collectively, the Claimant Trustee and Litigation Trustee.

133. “*UBS*” means, collectively, UBS Securities LLC and UBS AG London Branch.

134. “*Unexpired Lease*” means a lease to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

135. “*Unimpaired*” means, with respect to a Class of Claims or Equity Interests that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

136. “*Voting Deadline*” means the date and time by which all Ballots to accept or reject the Plan must be received in order to be counted under the under the Order of the Bankruptcy Court approving the Disclosure Statement as containing adequate information pursuant to section 1125(a) of the Bankruptcy Code and authorizing the Debtor to solicit acceptances of the Plan.

137. “*Voting Record Date*” means November 23, 2020.

Professional Fee Claim Objection Deadline. Each Holder of an Allowed Professional Fee Claim will be paid by the Debtor or the Claimant Trust, as applicable, in Cash within ten (10) Business Days of entry of the order approving such Allowed Professional Fee Claim.

On the Effective Date, the Claimant Trustee shall establish the Professional Fee Reserve. The Professional Fee Reserve shall vest in the Claimant Trust and shall be maintained by the Claimant Trustee in accordance with the Plan and Claimant Trust Agreement. The Claimant Trust shall fund the Professional Fee Reserve on the Effective Date in an estimated amount determined by the Debtor in good faith prior to the Confirmation Date and that approximates the total projected amount of unpaid Professional Fee Claims on the Effective Date. Following the payment of all Allowed Professional Fee Claims, any excess funds in the Professional Fee Reserve shall be released to the Claimant Trust to be used for other purposes consistent with the Plan and the Claimant Trust Agreement.

C. Priority Tax Claims

On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Priority Tax Claim is an Allowed Priority Tax Claim as of the Effective Date or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Priority Tax Claim, at the election of the Debtor: (a) Cash in an amount of a total value as of the Effective Date of the Plan equal to the amount of such Allowed Priority Tax Claim, ~~(b) in accordance with section 1129(a)(9)(C) of the Bankruptcy Code, or (b) if paid over time,~~ payment of such Allowed Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code; or (c) such other less favorable treatment as agreed to in writing by the Debtor and such Holder. Payment of statutory fees due pursuant to 28 U.S.C. § 1930(a)(6) will be made at all appropriate times until the entry of a final decree; *provided, however*, that the Debtor may prepay any or all such Claims at any time, without premium or penalty.

ARTICLE III. CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND EQUITY INTERESTS

A. Summary

All Claims and Equity Interests, except Administrative Expense Claims and Priority Tax Claims, are classified in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, and Priority Tax Claims have not been classified.

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes including, without limitation, confirmation and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and will be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within

I. Special Provision Governing Unimpaired Claims

Except as otherwise provided in the Plan, nothing under the Plan will affect the Debtor's rights in respect of any Unimpaired Claims, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

J. Subordinated Claims

The allowance, classification, and treatment of all Claims under the Plan shall take into account and conform to the contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. ~~Under section 510 of the Bankruptcy Code, upon~~ Upon written notice and hearing, the Debtor the Reorganized Debtor, and the Claimant Trustee reserve the right to seek entry of an order by the Bankruptcy Court to re-classify or to subordinate any Claim in accordance with any contractual, legal, or equitable subordination relating thereto, and the treatment afforded any Claim under the Plan that becomes a subordinated Claim at any time shall be modified to reflect such subordination.

ARTICLE IV. MEANS FOR IMPLEMENTATION OF THIS PLAN

A. Summary

As discussed in the Disclosure Statement, the Plan will be implemented through (i) the Claimant Trust, (ii) the Litigation Sub-Trust, and (iii) the Reorganized Debtor.

On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be cancelled, and new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC – a newly-chartered limited liability company wholly-owned by the Claimant Trust. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor's limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor's current Limited Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to this Plan and the Claimant Trust Agreement, and the Litigation Trustee will pursue, if applicable, the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan. The Reorganized Debtor will administer the Reorganized Debtor Assets and, if needed, with the utilization of a Sub-Servicer, which administration will include, among other things, managing the wind down of the Managed Funds.

Notwithstanding anything herein to the contrary, the Debtor shall assume or reject that certain real property lease with Crescent TC Investors L.P. (“Landlord”) for the Debtor’s headquarters located at 200/300 Crescent Ct., Suite #700, Dallas, Texas 75201 (the “Lease”) in accordance with the notice to Landlord, procedures and timing required by 11 U.S.C. §365(d)(4), as modified by that certain *Agreed Order Granting Motion to Extend Time to Assume or Reject Unexpired Nonresidential Real Property Lease* [Docket No. 1122].

B. Claims Based on Rejection of Executory Contracts or Unexpired Leases

Any Executory Contract or Unexpired Lease not assumed or rejected on or before the Confirmation Date shall be deemed rejected, pursuant to the Confirmation Order. Any Person asserting a Rejection Claim shall File a proof of claim within thirty days of the Effective Confirmation Date. Any Rejection Claims that are not timely Filed pursuant to this Plan shall be forever disallowed and barred. If one or more Rejection Claims are timely Filed, the Claimant Trustee may File an objection to any Rejection Claim.

Rejection Claims shall be classified as General Unsecured Claims and shall be treated in accordance with ARTICLE III of this Plan.

C. Cure of Defaults for Assumed or Assigned Executory Contracts and Unexpired Leases

Any monetary amounts by which any Executory Contract or Unexpired Lease to be assumed or assigned hereunder is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtor upon assumption or assignment thereof, by payment of the default amount in Cash as and when due in the ordinary course or on such other terms as the parties to such Executory Contracts may otherwise agree. The Debtor may serve a notice on the Committee and parties to Executory Contracts or Unexpired Leases to be assumed or assigned reflecting the Debtor’s or Reorganized Debtor’s intention to assume or assign the Executory Contract or Unexpired Lease in connection with this Plan and setting forth the proposed cure amount (if any).

If a dispute regarding (1) the amount of any payments to cure a default, (2) the ability of the Debtor, the Reorganized Debtor, or any assignee to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed or assigned or (3) any other matter pertaining to assumption or assignment, the cure payments required by section 365(b)(1) of the Bankruptcy Code will be made following the entry of a Final Order or orders resolving the dispute and approving the assumption or assignment.

Assumption or assignment of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise and full payment of any applicable cure amounts pursuant to this ARTICLE V.C shall result in the full release and satisfaction of any cure amounts, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assigned Executory Contract or Unexpired Lease at any time prior to the effective date of assumption or assignment. Any and all Proofs of Claim based upon Executory Contracts

forth in the Plan Documents; (ii) the provisions of the Confirmation Order and this Plan are nonseverable and mutually dependent; (iii) the implementation of this Plan in accordance with its terms is authorized; (iv) pursuant to section 1146 of the Bankruptcy Code, the delivery of any deed or other instrument or transfer order, in furtherance of, or in connection with this Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition or transfer of Assets contemplated under this Plan, shall not be subject to any Stamp or Similar Tax; and (v) the vesting of the Claimant Trust Assets in the Claimant Trust and the Reorganized Debtor Assets in the Reorganized Debtor, in each case as of the Effective Date free and clear of liens and claims to the fullest extent permissible under applicable law pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.

- All documents and agreements necessary to implement this Plan, including without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, in each case in form and substance reasonably acceptable to the Debtor and the Committee, shall have (a) been tendered for delivery, and (b) been effected by, executed by, or otherwise deemed binding upon, all Entities party thereto and shall be in full force and effect. All conditions precedent to such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.
- All authorizations, consents, actions, documents, approvals (including any governmental approvals), certificates and agreements necessary to implement this Plan, including, without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, shall have been obtained, effected or executed and delivered to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable laws and any applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain or prevent effectiveness or consummation of the Restructuring.
- The Debtor shall have obtained applicable directors' and officers' insurance coverage that is acceptable to each of the Debtor, the Committee, the Claimant Trust Oversight Committee, the Claimant Trustee and the Litigation Trustee.
- The Professional Fee Reserve shall be funded pursuant to this Plan in an amount determined by the Debtor in good faith.

B. Waiver of Conditions

The conditions to effectiveness of this Plan set forth in this ARTICLE VIII (other than that the Confirmation Order shall have been entered) may be waived in whole or in part by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee) ~~and any applicable parties in Section VII.A of this Plan~~, without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or

EXHIBIT DD

Schedule of Causes of Action

The Causes of Action shall include, *without limitation*, any cause of action based on the following:

breach of fiduciary duties, breach of duty of care, breach of duty of loyalty, usurpation of corporate opportunities, breach of implied covenant of good faith and fair dealing, conversion, misappropriation of assets, misappropriation of trade secrets, unfair competition, breach of contract, breach of warranty, fraud, constructive fraud, negligence, gross negligence, fraudulent conveyance, fraudulent transfer, fraudulent misrepresentation, negligent misrepresentation, fraudulent concealment, fraudulent inducement, tortious interference, *quantum meruit*, unjust enrichment, abuse of process, alter ego, substantive consolidation, recharacterization, business disparagement, indemnity, claims for recovery of distributions or dividends, claims for indemnification, promissory estoppel, quasi-contract claims, any counterclaims, equitable subordination, avoidance actions provided for under sections 544 or 547 of the Bankruptcy Code, claims brought under state law, claims brought under federal law, claims under any common-law theory of tort or law or equity, and any claims similar in nature to the foregoing claims.

The Causes of Action shall include, *without limitation*, any cause of action against the following persons and entities:

James Dondero, Mark Okada, Grant Scott, John Honis, any current or former insider of the Debtor, the Dugaboy Investment Trust, Charitable DAF Holdco, Ltd, Hunter Mountain Investment Trust, Nexbank Capital, Inc. Highland Capital Management Services, Inc., NexPoint Advisors GP, LLC, NexPoint Advisors, L.P., Strand Advisors XVI, Inc., Highland Capital Management Fund Advisors, L.P., NexAnnuity Holdings, Inc., the entities listed on the attached **Annex 1** hereto, any current or former employee of the Debtor, and any entity directly or indirectly owned, controlled, or operated for the benefit of the foregoing persons or entities.

The Causes of Action shall include, *without limitation*, any cause of action arising from the following transactions:

The transfer of ownership interests in the Debtor to Hunter Mountain Investment Trust, the creation or transfer of any notes receivable from the Debtor or from any entity related to the Debtor, the creation or transfer of assets to or from any charitable foundation or trust, the formation, performance, or breach of any contract for the Debtor to provide investment management, support services, or any other services, and the distribution of assets or cash from the Debtor to partners of the Debtor.

Annex 1

11 Estates Lane, LLC	Acis CLO Value Fund II Charitable DAF Ltd.
1110 Waters, LLC	Acis CMOA Trust
140 Albany, LLC	Advisors Equity Group LLC
1525 Dragon, LLC	Alamo Manhattan Hotel I, LLC
17720 Dickerson, LLC	(Third Party)
1905 Wylie LLC	Allenby, LLC
2006 Milam East Partners GP, LLC	Allisonville RE Holdings, LLC
2006 Milam East Partners, L.P.	AM Uptown Hotel, LLC
201 Tarrant Partners, LLC	Apex Care, L.P
2014 Corpus Weber Road LLC	Asbury Holdings, LLC (<i>fka HCSLR</i>
2325 Stemmons HoldCo, LLC	<i>Camelback Investors (Delaware), LLC</i>)
2325 Stemmons Hotel Partners, LLC	Ascendant Advisors
2325 Stemmons TRS, Inc.	Atlas IDF GP, LLC
300 Lamar, LLC	Atlas IDF, LP
3409 Rosedale, LLC	BB Votorantim Highland Infrastructure, LLC
3801 Maplewood, LLC	BDC Toys Holdco, LLC
3801 Shenandoah, L.P.	Beacon Mountain, LLC
3820 Goar Park LLC	Bedell Trust Ireland Limited (Charitable trust
400 Seaman, LLC	account)
401 Ame, L.P.	Ben Roby (third party)
4201 Locust, L.P.	BH Equities, LLC
4312 Belclaire, LLC	BH Heron Pointe, LLC
5833 Woodland, L.P.	BH Hollister, LLC
5906 DeLoache, LLC	BH Willowdale Manager, LLC
5950 DeLoache, LLC	Big Spring Partners, LLC
7758 Ronnie, LLC	Blair Investment Partners, LLC
7759 Ronnie, LLC	Bloomdale, LLC
AA Shotguns, LLC	Brave Holdings III Inc.
Aberdeen Loan Funding, Ltd.	Brentwood CLO, Ltd.
Acis CLO 2017-7 Ltd	Brentwood Investors Corp.
Acis CLO Management GP, LLC	Brian Mitts
Acis CLO Management GP, LLC (<i>fka Acis</i>	Bristol Bay Funding Ltd.
<i>CLO Opportunity Funds GP, LLC</i>)	Bristol Bay Funding, Ltd.
Acis CLO Management Holdings, L.P.	BVP Property, LLC
Acis CLO Management Intermediate Holdings	C-1 Arbors, Inc.
I, LLC	C-1 Cutter's Point, Inc.
Acis CLO Management Intermediate Holdings	C-1 Eaglecrest, Inc.
II, LLC	C-1 Silverbrook, Inc.
Acis CLO Management, LLC (<i>fka Acis CLO</i>	Cabi Holdco GP, LLC
<i>Opportunity Funds SLP, LLC</i>)	Cabi Holdco I, Ltd
Acis CLO Trust	Cabi Holdco I, Ltd.

Cabi Holdco, L.P.
 California Public Employees' Retirement System
 Camelback Residential Investors, LLC
 Camelback Residential Investors, LLC
(fka Sevilla Residential Partners, LLC)
 Camelback Residential Partners, LLC
 Capital Real Estate - Latitude, LLC
 Castle Bio Manager, LLC
 Castle Bio, LLC
 Cayco Admin Ltd.
 Cayco Insolvency Ltd.
 CG Works, Inc.
 CG Works, Inc.
(fka Common Grace Ventures, Inc.)
 Charitable DAF Fund, L.P.
 Charitable DAF GP, LLC
 Charitable DAF HoldCo, Ltd
 Charitable DAF HoldCo, Ltd.
 Claymore Holdings, LLC
 CLO HoldCo, Ltd
 CLO Holdco, Ltd.
 Corbusier, Ltd.
 Cornerstone Healthcare Group Holding, Inc.
 Corpus Weber Road Member LLC
 CP Equity Hotel Owner, LLC
 CP Equity Land Owner, LLC
 CP Equity Owner, LLC
 CP Hotel TRS, LLC
 CP Land Owner, LLC
 CP Tower Owner, LLC
 CRE - Lat, LLC
 Credit Suisse, Cayman Islands Branch
 Crossings 2017 LLC
 Crown Global Insurance Company (third party)
 Dallas Cityplace MF SPE Owner LLC
 Dallas Lease and Finance, L.P.
 Dana Scott Breault
 James Dondero
 Reese Avry Dondero
 Jameson Drue Dondero
 Dana Sprong (Third Party)

David c. Hopson
 De Kooning, Ltd.
 deKooning, Ltd.
 DFA/BH Autumn Ridge, LLC
 Dolomiti, LLC
 DrugCrafters, L.P.
 Dugaboy Investment Trust
 Dugaboy Management, LLC
 Dugaboy Project Management GP, LLC
 Eagle Equity Advisors, LLC
 Eames, Ltd.
 Eastland CLO, Ltd.
 Eastland Investors Corp.
 EDS Legacy Heliport, LLC
 EDS Legacy Partners Owner, LLC
 EDS Legacy Partners, LLC
 Empower Dallas Foundation, Inc.
 ENA 41, LLC
 Entegra Strat Superholdco, LLC
 Entegra-FRO Holdco, LLC
 Entegra-FRO Superholdco, LLC
 Entegra-HOCF Holdco, LLC
 Entegra-NHF Holdco, LLC
 Entegra-NHF Superholdco, LLC
 Entegra-RCP Holdco, LLC
 Estates on Maryland Holdco, LLC
 Estates on Maryland Owners SM, Inc.
 Estates on Maryland Owners, LLC
 Estates on Maryland, LLC
 Falcon E&P Four Holdings, LLC
 Falcon E&P One, LLC
 Falcon E&P Opportunities Fund, L.P.
 Falcon E&P Opportunities GP, LLC
 Falcon E&P Royalty Holdings, LLC
 Falcon E&P Six, LLC
 Falcon E&P Two, LLC
 Falcon Four Midstream, LLC
 Falcon Four Upstream, LLC
 Falcon Incentive Partners GP, LLC
 Falcon Incentive Partners, LP
 Falcon Six Midstream, LLC
 Flamingo Vegas Holdco, LLC *(fka Cabi Holdco, LLC)*

Four Rivers Co-Invest GP, LLC
 Four Rivers Co-Invest, L.P.
 FRBH Abbington SM, Inc.
 FRBH Abbington, LLC
 FRBH Arbors, LLC
 FRBH Beechwood SM, Inc.
 FRBH Beechwood, LLC
 FRBH C1 Residential, LLC
 FRBH Courtney Cove SM, Inc.
 FRBH Courtney Cove, LLC
 FRBH CP, LLC
 FRBH Duck Creek, LLC
 FRBH Eaglecrest, LLC
 FRBH Edgewater JV, LLC
 FRBH Edgewater Owner, LLC
 FRBH Edgewater SM, Inc.
 FRBH JAX-TPA, LLC
 FRBH Nashville Residential, LLC
 FRBH Regatta Bay, LLC
 FRBH Sabal Park SM, Inc.
 FRBH Sabal Park, LLC
 FRBH Silverbrook, LLC
 FRBH Timberglen, LLC
 FRBH Willow Grove SM, Inc.
 FRBH Willow Grove, LLC
 FRBH Woodbridge SM, Inc.
 FRBH Woodbridge, LLC
 Freedom C1 Residential, LLC
 Freedom Duck Creek, LLC
 Freedom Edgewater, LLC
 Freedom JAX-TPA Residential, LLC
 Freedom La Mirage, LLC
 Freedom LHV LLC
 Freedom Lubbock LLC
 Freedom Miramar Apartments, LLC
 Freedom Sandstone, LLC
 Freedom Willowdale, LLC
 Fundo de Investimento em Direitos Creditórios
 BB Votorantim Highland Infraestrutura
 G&E Apartment REIT The Heights at Olde
 Towne, LLC
 G&E Apartment REIT The Myrtles at Olde
 Towne, LLC

GAF REIT, LLC
 GAF Toys Holdco, LLC
 Gardens of Denton II, L.P.
 Gardens of Denton III, L.P.
 Gleneagles CLO, Ltd.
 Goveranance RE, Ltd.
 Governance Re, Ltd.
 Governance, Ltd.
 Grant Scott
 Grant Scott, Trustee of The SLHC Trust
 Grayson CLO, Ltd.
 Grayson Investors Corp.
 Greater Kansas City Community Foundation
 (third party)
 Greenbriar CLO, Ltd.
 Greg Busseyt
 Gunwale LLC
 Gunwale, LLC
 Hakusan, LLC
 Hammark Holdings LLC
 Hampton Ridge Partners, LLC
 Harko, LLC
 Harry Bookey/Pam Bookey (third party)
 Haverhill Acquisition Co., LLC
 Haygood, LLC
 HB 2015 Family LP (third party)
 HCBH 11611 Ferguson, LLC
 HCBH Buffalo Pointe II, LLC
 HCBH Buffalo Pointe III, LLC
 HCBH Buffalo Pointe, LLC
 HCBH Hampton Woods SM, Inc.
 HCBH Hampton Woods, LLC
 HCBH Overlook SM, Inc.
 HCBH Overlook, LLC
 HCBH Rent Investors, LLC
 HCMS Falcon GP, LLC
 HCMS Falcon, L.P.
 HCO Holdings, LLC
 HCOF Preferred Holdings, L.P.
 HCOF Preferred Holdings, LP
 HCOF Preferred Holdings, Ltd.
 HCRE 1775 James Ave, LLC
 HCRE Addison TRS, LLC

HCRE Addison, LLC (*fka HWS Addison, LLC*)

HCRE Hotel Partner, LLC (*fka HCRE HWS Partner, LLC*)

HCRE Las Colinas TRS, LLC

HCRE Las Colinas, LLC (*fka HWS Las Colinas, LLC*)

HCRE Plano TRS, LLC

HCRE Plano, LLC (*fka HWS Plano, LLC*)

HCRE-I Holding Corp.

HCRE-II Holding Corp.

HCRE-III Holding Corp.

HCRE-IV Holding Corp.

HCRE-IX Holding Corp.

HCRE-V Holding Corp.

HCRE-VI Holding Corp.

HCRE-VII Holding Corp.

HCRE-VIII Holding Corp.

HCRE-XI Holding Corp.

HCRE-XII Holding Corp.

HCRE-XIII Holding Corp.

HCRE-XIV Holding Corp.

HCRE-XV Holding Corp.

HCSLR Camelback Investors (Cayman), Ltd.

HCSLR Camelback, LLC

HCT Holdco 2 Ltd.

HCT Holdco 2, Ltd.

HE 41, LLC

HE Capital 232 Phase I Property, LLC

HE Capital 232 Phase I, LLC

HE Capital Asante, LLC

HE Capital Fox Trails, LLC

HE Capital KR, LLC

HE Capital, LLC

HE CLO Holdco, LLC

HE Mezz Fox Trails, LLC

HE Mezz KR, LLC

HE Peoria Place Property, LLC

HE Peoria Place, LLC

Heron Pointe Investors, LLC

Hewett's Island CLO I-R, Ltd.

HFP Asset Funding II, Ltd.

HFP Asset Funding III, Ltd.

HFP CDO Construction Corp.

HFP GP, LLC

HFRO Sub, LLC

Hibiscus HoldCo, LLC

Highland - First Foundation Income Fund

Highland 401(k) Plan

Highland 401K Plan

Highland Argentina Regional Opportunity Fund GP, LLC

Highland Argentina Regional Opportunity Fund, L.P.

Highland Argentina Regional Opportunity Fund, Ltd.

Highland Argentina Regional Opportunity Master Fund, L.P.

Highland Brasil, LLC

Highland Capital Brasil Gestora de Recursos (*fka Highland Brasilinvest Gestora de Recursos, LTDA; fka HBI Consultoria Empresarial, LTDA*)

Highland Capital Management (Singapore) Pte Ltd

Highland Capital Management AG

Highland Capital Management AG (Highland Capital Management SA) (Highland Capital Management Ltd)

Highland Capital Management Fund Advisors, L.P.

Highland Capital Management Fund Advisors, L.P. (*fka Pyxis Capital, L.P.*)

Highland Capital Management Korea Limited

Highland Capital Management Latin America, L.P.

Highland Capital Management LP Retirement Plan and Trust

Highland Capital Management Multi-Strategy Insurance Dedicated Fund, L.P.

Highland Capital Management Real Estate Holdings I, LLC

Highland Capital Management Real Estate Holdings II, LLC

Highland Capital Management Services, Inc.

Highland Capital Management, L.P.

Highland Capital Management, L.P. Charitable Fund

Highland Capital Management, L.P. Retirement Plan and Trust

Highland Capital Management, L.P., as trustee of Acis CMOA Trust and nominee for and on behalf of Highland CLO Assets Holdings Limited

Highland Capital Management, L.P., as trustee of Highland Latin America Trust and nominee for and on behalf of Highland Latin America LP, Ltd.

Highland Capital Management, L.P., as trustee of Highland Latin America Trust and nominee for and on behalf of Highland Latin America LP, Ltd.

Highland Capital Management, LP
Highland Capital Management, LP Charitable Fund

Highland Capital Multi-Strategy Fund, LP
Highland Capital of New York, Inc.
Highland Capital Special Allocation, LLC
Highland CDO Holding Company
Highland CDO Opportunity Fund GP, L.P.
Highland CDO Opportunity Fund, L.P.
Highland CDO Opportunity Fund, Ltd.
Highland CDO Opportunity GP, LLC
Highland CDO Opportunity Master Fund, L.P.
Highland CDO Trust
Highland CLO 2018-1, Ltd.
Highland CLO Assets Holdings Limited
Highland CLO Funding, Ltd.
Highland CLO Funding, Ltd.
Highland CLO Funding, Ltd. (*fka Acis Loan Funding, Ltd.*)

Highland CLO Gaming Holdings, LLC
Highland CLO Holdings Ltd.
Highland CLO Holdings, Ltd. (as of 12.19.17)
Highland CLO Management Ltd.
Highland CLO Trust
Highland Credit Opportunities CDO Asset Holdings GP, Ltd.

Highland Credit Opportunities CDO Asset Holdings, L.P.

Highland Credit Opportunities CDO Financing, LLC

Highland Credit Opportunities CDO, Ltd.
Highland Credit Opportunities Holding Corporation

Highland Credit Opportunities Japanese Feeder Sub-Trust

Highland Credit Opportunities Japanese Unit Trust (Third Party)

Highland Credit Strategies Fund, L.P.

Highland Credit Strategies Fund, Ltd.

Highland Credit Strategies Holding Corporation

Highland Credit Strategies Holding Corporation

Highland Credit Strategies Master Fund, L.P.

Highland Dallas Foundation, Inc.

Highland Dynamic Income Fund GP, LLC

Highland Dynamic Income Fund GP, LLC (*fka Highland Capital Loan GP, LLC*)

Highland Dynamic Income Fund, L.P.

Highland Dynamic Income Fund, L.P. (*fka Highland Capital Loan Fund, L.P.*)

Highland Dynamic Income Fund, Ltd.

Highland Dynamic Income Fund, Ltd. (*fka Highland Loan Fund, Ltd.*)

Highland Dynamic Income Master Fund, L.P.

Highland Dynamic Income Master Fund, L.P. (*fka Highland Loan Master Fund, L.P.*)

Highland Employee Retention Assets LLC

Highland Energy Holdings, LLC

Highland Energy MLP Fund (*fka Highland Energy and Materials Fund*)

Highland Equity Focus Fund, L.P.

Highland ERA Management, LLC

Highland eSports Private Equity Fund

Highland Financial Corp.

Highland Financial Partners, L.P.

Highland Fixed Income Fund

Highland Flexible Income UCITS Fund

Highland Floating Rate Fund

Highland Floating Rate Opportunitites Fund
 Highland Floating Rate Opportunities Fund
 Highland Fund Holdings, LLC
 Highland Funds I
 Highland Funds II
 Highland Funds III
 Highland GAF Chemical Holdings, LLC
 Highland General Partner, LP
 Highland Global Allocation Fund
 Highland Global Allocation Fund
(fka Highland Global Allocation Fund II)
 Highland GP Holdings, LLC
 Highland HCF Advisor Ltd.
 Highland HCF Advisor, Ltd., as Trustee for
 and on behalf of Acis CLO Trust, as nominee
 for and on behalf of Highland CLO Funding,
 Ltd. (as of 3.29.18)
 Highland Healthcare Equity Income and
 Growth Fund
 Highland iBoxx Senior Loan ETF
 Highland Income Fund
 Highland Income Fund *(fka Highland
 Floating Rate Opportunities Fund)*
 Highland Kansas City Foundation, Inc.
 Highland Latin America Consulting, Ltd.
 Highland Latin America GP, Ltd.
 Highland Latin America LP, Ltd.
 Highland Latin America Trust
 Highland Legacy Limited
 Highland LF Chemical Holdings, LLC
 Highland Loan Funding V, LLC
 Highland Loan Funding V, Ltd.
 Highland Long/Short Equity Fund
 Highland Long/Short Healthcare Fund
 Highland Marcal Holding, Inc.
 Highland Merger Arbitrage Fund
 Highland Multi Strategy Credit Fund GP, L.P.
 Highland Multi Strategy Credit Fund GP, L.P.
*(fka Highland Credit Opportunities CDO GP,
 L.P.)*
 Highland Multi Strategy Credit Fund, L.P.

Highland Multi Strategy Credit Fund, L.P. *(fka
 Highland Credit Opportunities Fund, L.P., fka
 Highland Credit Opportunities CDO, L.P.)*
 Highland Multi Strategy Credit Fund, Ltd.
 Highland Multi Strategy Credit Fund, Ltd. *(fka
 Highland Credit Opportunities Fund, Ltd.)*
 Highland Multi Strategy Credit GP, LLC
 Highland Multi Strategy Credit GP, LLC *(fka
 Highland Credit Opportunities CDO GP, LLC)*
 Highland Multi-Strategy Fund GP, LLC
 Highland Multi-Strategy Fund GP, LP
 Highland Multi-Strategy IDF GP, LLC
 Highland Multi-Strategy Master Fund, L.P.
 Highland Multi-Strategy Master Fund, LP
 Highland Multi-Strategy Onshore Master
 SubFund II, LLC
 Highland Multi-Strategy Onshore Master
 Subfund, LLC
 Highland Opportunistic Credit Fund
 Highland Park CDO 1, Ltd.
 Highland Park CDO I, Ltd.
 Highland Premier Growth Equity Fund
 Highland Premium Energy & Materials Fund
 Highland Prometheus Feeder Fund I, L.P.
 Highland Prometheus Feeder Fund I, LP
 Highland Prometheus Feeder Fund II, L.P.
 Highland Prometheus Feeder Fund II, LP
 Highland Prometheus Master Fund, L.P.
 Highland Receivables Finance I, LLC
 Highland Restoration Capital Partners GP,
 LLC
 Highland Restoration Capital Partners Master,
 L.P.
 Highland Restoration Capital Partners
 Offshore, L.P.
 Highland Restoration Capital Partners, L.P.
 Highland Santa Barbara Foundation, Inc.
 Highland Select Equity Fund GP, L.P.
 Highland Select Equity Fund, L.P.
 Highland Select Equity GP, LLC
 Highland Select Equity Master Fund, L.P.

Highland Small-Cap Equity Fund
 Highland Socially Responsible Equity Fund
 Highland Socially Responsible Equity Fund
 (fka Highland Premier Growth Equity Fund)

Highland Special Opportunities Holding
 Company
 Highland SunBridge GP, LLC
 Highland Tax-Exempt Fund
 Highland TCI Holding Company, LLC
 Highland Total Return Fund
 Highland's Roads Land Holding Company,
 LLC

Hinduja Bank (Switzerland) Ltd
 Hirst, Ltd.
 HMCF PB Investors, LLC
 HMx2 Investment Trust
 (Matt McGraner)

Hockney, Ltd.
 HRT North Atlanta, LLC
 HRT Timber Creek, LLC
 HRTBH North Atlanta, LLC
 HRTBH Timber Creek, LLC
 Huber Funding LLC
 Hunter Mountain Investment Trust
 HWS Investors Holdco, LLC
 Internal Investors

Intertrust
 James D. Dondero
 Reese Avry Dondero
 Jameson Drue Dondero

James Dondero
 James Dondero and Mark Okada
 James Dondero
 Reese Avry Dondero
 Jameson Drue Dondero

Japan Trustee Services Bank, Ltd.
 Jasper CLO, Ltd.

Jewelry Ventures I, LLC
 JMIJM, LLC

Joanna E. Milne Irrevocable Trust dated Nov
 25 1998 (third party)

John Honis

John L. Holt, Jr.
 John R. Sears, Jr.
 Karisopolis, LLC
 Keelhaul LLC
 KHM Interests, LLC (third party)
 Kuilima Montalban Holdings, LLC
 Kuilima Resort Holdco, LLC
 KV Cameron Creek Owner, LLC
 Lakes at Renaissance Park Apartments
 Investors, L.P.

Lakeside Lane, LLC
 Landmark Battleground Park II, LLC
 Lane Britain

Larry K. Anders
 LAT Battleground Park, LLC
 LAT Briley Parkway, LLC
 Lautner, Ltd.

Leawood RE Holdings, LLC
 Liberty Cayman Holdings, Ltd.
 Liberty CLO Holdco, Ltd.
 Liberty CLO, Ltd.

Liberty Sub, Ltd.
 Long Short Equity Sub, LLC
 Longhorn Credit Funding LLC
 Longhorn Credit Funding LLC - A
 Longhorn Credit Funding LLC - B
 Longhorn Credit Funding LLC (LHB)
 Longhorn Credit Funding, LLC
 Lurin Real Estate Holdings V, LLC
 Maple Avenue Holdings, LLC
 MaplesFS Limited

Marc C. Manzo
 Mark and Pam Okada Family Trust - Exempt
 Descendants' Trust
 Mark and Pam Okada Family Trust - Exempt
 Trust #2

Mark and Pamela Okada Family Trust -
 Exempt Descendants' Trust

Mark and Pamela Okada Family Trust -
 Exempt Descendants' Trust #2

Mark and Pamela Okada Family Trust -
 Exempt Trust #2

Mark K. Okada

Mark Okada	NexPoint Capital, Inc. (<i>fka NexPoint Capital, LLC</i>)
Mark Okada and Pam Okada	
Mark Okada and Pam Okada, as joint owners	NexPoint CR F/H DST, LLC
Mark Okada/Pamela Okada	NexPoint Credit Strategies Fund
Markham Fine Jewelers, L.P.	NexPoint Discount Strategies Fund (<i>fka NexPoint Discount Yield Fund</i>)
Markham Fine Jewelers, LP	
Matt McGraner	NexPoint DRIP
Meritage Residential Partners, LLC	NexPoint Energy and Materials Opportunities Fund (<i>fka NexPoint Energy Opportunities Fund</i>)
MGM Studios HoldCo, Ltd.	
Michael Rossi	NexPoint Event-Driven Fund (<i>fka NexPoint Merger Arbitrage Fund</i>)
ML CLO XIX Sterling (Cayman), Ltd.	
N/A	NexPoint Flamingo DST
Nancy Dondero	NexPoint Flamingo Investment Co, LLC
NCI Apache Trail LLC	NexPoint Flamingo Leaseco, LLC
NCI Assets Holding Company LLC	NexPoint Flamingo Manager, LLC
NCI Country Club LLC	NexPoint Flamingo Property Manager, LLC
NCI Fort Worth Land LLC	NexPoint Healthcare Opportunities Fund
NCI Front Beach Road LLC	NexPoint Hospitality Trust
NCI Minerals LLC	NexPoint Hospitality, Inc.
NCI Royse City Land LLC	NexPoint Hospitality, LLC
NCI Stewart Creek LLC	NexPoint Insurance Distributors, LLC
NCI Storage, LLC	NexPoint Insurance Solutions GP, LLC
Neil Labatte	NexPoint Insurance Solutions GP, LLC (<i>fka Highland Capital Insurance Solutions GP, LLC</i>)
Neutra, Ltd.	NexPoint Insurance Solutions, L.P. (<i>fka Highland Capital Insurance Solutions, L.P.</i>)
New Jersey Tissue Company Holdco, LLC (<i>fka Marcal Paper Mills Holding Company, LLC</i>)	
NexAnnuity Holdings, Inc.	NexPoint Latin American Opportunities Fund
NexBank Capital Trust I	NexPoint Legacy 22, LLC
NexBank Capital, Inc.	NexPoint Lincoln Porte Equity, LLC
NexBank Land Advisors, Inc.	NexPoint Lincoln Porte Manager, LLC
NexBank Securities Inc.	NexPoint Lincoln Porte, LLC (<i>fka NREA Lincoln Porte, LLC</i>)
NexBank Securities, Inc.	
NexBank SSB	NexPoint Multifamily Capital Trust, Inc.
NexBank Title, Inc. (dba NexVantage Title Services)	NexPoint Multifamily Capital Trust, Inc. (<i>fka NexPoint Multifamily Realty Trust, Inc., fka Highland Capital Realty Trust, Inc.</i>)
NexBank, SSB	
NexPoint Advisors GP, LLC	NexPoint Multifamily Operating Partnership, L.P.
NexPoint Advisors, L.P.	
NexPoint Capital REIT, LLC	NexPoint Peoria, LLC
NexPoint Capital, Inc.	NexPoint Polo Glen DST

NexPoint Polo Glen Holdings, LLC
NexPoint Polo Glen Investment Co, LLC
NexPoint Polo Glen Leaseco, LLC
NexPoint Polo Glen Manager, LLC
NexPoint RE Finance Advisor GP, LLC
NexPoint RE Finance Advisor, L.P.
NexPoint Real Estate Advisors GP, LLC
NexPoint Real Estate Advisors II, L.P.
NexPoint Real Estate Advisors II, L.P.
NexPoint Real Estate Advisors III, L.P.
NexPoint Real Estate Advisors IV, L.P.
NexPoint Real Estate Advisors V, L.P.
NexPoint Real Estate Advisors VI, L.P.
NexPoint Real Estate Advisors VII GP, LLC
NexPoint Real Estate Advisors VII, L.P.
NexPoint Real Estate Advisors VIII, L.P.
NexPoint Real Estate Advisors, L.P.
NexPoint Real Estate Capital, LLC
NexPoint Real Estate Capital, LLC (*fka Highland Real Estate Capital, LLC, fka Highland Multifamily Credit Fund, LLC*)
NexPoint Real Estate Finance OP GP, LLC
NexPoint Real Estate Finance Operating Partnership, L.P.
NexPoint Real Estate Finance, Inc.
NexPoint Real Estate Opportunities, LLC
NexPoint Real Estate Opportunities, LLC (*fka Freedom REIT LLC*)
NexPoint Real Estate Partners, LLC
(fka HCRE Partners, LLC)
NexPoint Real Estate Partners, LLC (fka HCRE Partners, LLC)
NexPoint Real Estate Strategies Fund
NexPoint Residential Trust Inc.
NexPoint Residential Trust Operating Partnership GP, LLC
NexPoint Residential Trust Operating Partnership, L.P.
NexPoint Residential Trust Operating Partnership, L.P.
NexPoint Residential Trust, Inc.

NHT Operating Partnership II, LLC
 NHT Operating Partnership, LLC
 NHT Salem, LLC
 NHT SP Parent, LLC
 NHT SP TRS, LLC
 NHT SP, LLC
 NHT Tigard TRS, LLC
 NHT Tigard, LLC
 NHT TRS, Inc.
 NHT Uptown, LLC
 NHT Vancouver TRS, LLC
 NHT Vancouver, LLC
 NLA Assets LLC
 NMRT TRS, Inc.
 NREA Adair DST Manager, LLC
 NREA Adair Investment Co, LLC
 NREA Adair Joint Venture, LLC
 NREA Adair Leaseco Manager, LLC
 NREA Adair Leaseco, LLC
 NREA Adair Property Manager LLC
 NREA Adair, DST
 NREA Ashley Village Investors, LLC
 NREA Cameron Creek Investors, LLC
 NREA Cityplace Hue Investors, LLC
 NREA Crossing Investors LLC
 NREA Crossings Investors, LLC
 NREA Crossings Ridgewood Coinvestment,
 LLC (*fka NREA Crossings Ridgewood
 Investors, LLC*)
 NREA DST Holdings, LLC
 NREA El Camino Investors, LLC
 NREA Estates Inc.
 NREA Estates Investment Co, LLC
 NREA Estates Leaseco, LLC
 NREA Estates Manager, LLC
 NREA Estates Property Manager, LLC
 NREA Estates, DST
 NREA Gardens DST Manager LLC
 NREA Gardens DST Manager, LLC
 NREA Gardens Investment Co, LLC
 NREA Gardens Leaseco Manager, LLC
 NREA Gardens Leaseco, LLC
 NREA Gardens Property Manager, LLC

NREA Gardens Springing LLC
 NREA Gardens Springing Manager, LLC
 NREA Gardens, DST
 NREA Hidden Lake Investment Co, LLC
 NREA Hue Investors, LLC
 NREA Keystone Investors, LLC
 NREA Meritage Inc.
 NREA Meritage Investment Co, LLC
 NREA Meritage Leaseco, LLC
 NREA Meritage Manager, LLC
 NREA Meritage Property Manager, LLC
 NREA Meritage, DST
 NREA Oaks Investors, LLC
 NREA Retreat Investment Co, LLC
 NREA Retreat Leaseco, LLC
 NREA Retreat Manager, LLC
 NREA Retreat Property Manager, LLC
 NREA Retreat, DST
 NREA SE MF Holdings LLC
 NREA SE MF Holdings, LLC
 NREA SE MF Investment Co, LLC
 NREA SE MF Investment Co, LLC
 NREA SE Multifamily LLC
 NREA SE Multifamily, LLC
 NREA SE One Property Manager, LLC
 NREA SE Three Property Manager, LLC
 NREA SE Two Property Manager, LLC
 NREA SE1 Andros Isles Leaseco, LLC
 NREA SE1 Andros Isles Manager, LLC
 NREA SE1 Andros Isles, DST
 (Converted from DK Gateway Andros, LLC)
 NREA SE1 Arborwalk Leaseco, LLC
 NREA SE1 Arborwalk Manager, LLC
 NREA SE1 Arborwalk, DST
 (Converted from MAR Arborwalk, LLC)
 NREA SE1 Towne Crossing Leaseco, LLC
 NREA SE1 Towne Crossing Manager, LLC
 NREA SE1 Towne Crossing, DST
 (Converted from Apartment REIT Towne
 Crossing, LP)
 NREA SE1 Walker Ranch Leaseco, LLC
 NREA SE1 Walker Ranch Manager, LLC

NREA SE1 Walker Ranch, DST
 (Converted from SOF Walker Ranch Owner,
 L.P.)

NREA SE2 Hidden Lake Leaseco, LLC
 NREA SE2 Hidden Lake Manager, LLC
 NREA SE2 Hidden Lake, DST
 NREA SE2 Hidden Lake, DST
 (Converted from SOF Hidden Lake SA Owner,
 L.P.)

NREA SE2 Vista Ridge Leaseco, LLC
 NREA SE2 Vista Ridge Manager, LLC
 NREA SE2 Vista Ridge, DST
 NREA SE2 Vista Ridge, DST
 (Converted from MAR Vista Ridge, L.P.)

NREA SE2 West Place Leaseco, LLC
 NREA SE2 West Place Manager, LLC
 NREA SE2 West Place, DST
 (Converted from Landmark at West Place,
 LLC)

NREA SE3 Arboleda Leaseco, LLC
 NREA SE3 Arboleda Manager, LLC
 NREA SE3 Arboleda, DST
 (Converted from G&E Apartment REIT
 Arboleda, LLC)

NREA SE3 Fairways Leaseco, LLC
 NREA SE3 Fairways Manager, LLC
 NREA SE3 Fairways, DST
 (Converted from MAR Fairways, LLC)

NREA SE3 Grand Oasis Leaseco, LLC
 NREA SE3 Grand Oasis Manager, LLC
 NREA SE3 Grand Oasis, DST
 (Converted from Landmark at Grand Oasis,
 LP)

NREA Southeast Portfolio One Manager, LLC
 NREA Southeast Portfolio One, DST
 NREA Southeast Portfolio One, DST
 NREA Southeast Portfolio Three Manager,
 LLC

NREA Southeast Portfolio Three, DST
 NREA Southeast Portfolio Three, DST
 NREA Southeast Portfolio Two Manager, LLC
 NREA Southeast Portfolio Two, DST
 NREA Southeast Portfolio Two, LLC

NREA SOV Investors, LLC
 NREA Uptown TRS, LLC
 NREA VB I LLC
 NREA VB II LLC
 NREA VB III LLC
 NREA VB IV LLC
 NREA VB Pledgor I LLC
 NREA VB Pledgor I, LLC
 NREA VB Pledgor II LLC
 NREA VB Pledgor II, LLC
 NREA VB Pledgor III LLC
 NREA VB Pledgor III, LLC
 NREA VB Pledgor IV LLC
 NREA VB Pledgor IV, LLC
 NREA VB Pledgor V LLC
 NREA VB Pledgor V, LLC
 NREA VB Pledgor VI LLC
 NREA VB Pledgor VI, LLC
 NREA VB Pledgor VII LLC
 NREA VB Pledgor VII, LLC
 NREA VB SM, Inc.
 NREA VB V LLC
 NREA VB VI LLC
 NREA VB VII LLC

NREA Vista Ridge Investment Co, LLC
 NREC AR Investors, LLC
 NREC BM Investors, LLC
 NREC BP Investors, LLC
 NREC Latitude Investors, LLC
 NREC REIT Sub, Inc.
 NREC TRS, Inc.
 NREC WW Investors, LLC
 NREF OP I Holdco, LLC
 NREF OP I SubHoldco, LLC
 NREF OP I, L.P.
 NREF OP II Holdco, LLC
 NREF OP II SubHoldco, LLC
 NREF OP II, L.P.
 NREF OP IV REIT Sub TRS, LLC
 NREF OP IV REIT Sub, LLC
 NREF OP IV, L.P.
 NREO NW Hospitality Mezz, LLC
 NREO NW Hospitality, LLC

NREO Perilune, LLC
NREO SAFStor Investors, LLC
NREO TRS, Inc.
NRESF REIT Sub, LLC
NXRT Abbington, LLC
NXRT Atera II, LLC
NXRT Atera, LLC
NXRT AZ2, LLC
NXRT Barrington Mill, LLC
NXRT Bayberry, LLC
NXRT Bella Solara, LLC
NXRT Bella Vista, LLC
NXRT Bloom, LLC
NXRT Brandywine GP I, LLC
NXRT Brandywine GP I, LLC
NXRT Brandywine GP II, LLC
NXRT Brandywine GP II, LLC
NXRT Brandywine LP, LLC
NXRT Brandywine LP, LLC
NXRT Brentwood Owner, LLC
NXRT Brentwood, LLC
NXRT Cedar Pointe Tenant, LLC
NXRT Cedar Pointe, LLC
NXRT Cityview, LLC
NXRT Cornerstone, LLC
NXRT Crestmont, LLC
NXRT Crestmont, LLC
NXRT Enclave, LLC
NXRT Glenview, LLC
NXRT H2 TRS, LLC
NXRT Heritage, LLC
NXRT Hollister TRS LLC
NXRT Hollister, LLC
NXRT LAS 3, LLC
NXRT Master Tenant, LLC
NXRT Nashville Residential, LLC
NXRT Nashville Residential, LLC (*fka Freedom Nashville Residential, LLC*)
NXRT North Dallas 3, LLC
NXRT Old Farm, LLC
NXRT Pembroke Owner, LLC
NXRT Pembroke, LLC
NXRT PHX 3, LLC

NXRT Radbourne Lake, LLC
NXRT Rockledge, LLC
NXRT Sabal Palms, LLC
NXRT SM, Inc.
NXRT Steeplechase, LLC
NXRT Stone Creek, LLC
NXRT Summers Landing GP, LLC
NXRT Summers Landing LP, LLC
NXRT Torreyana, LLC
NXRT Vanderbilt, LLC
NXRT West Place, LLC
NXRTBH AZ2, LLC
NXRTBH Barrington Mill Owner, LLC
NXRTBH Barrington Mill SM, Inc.
NXRTBH Barrington Mill, LLC
NXRTBH Bayberry, LLC
NXRTBH Cityview, LLC
NXRTBH Colonnade, LLC
NXRTBH Cornerstone Owner, LLC
NXRTBH Cornerstone SM, Inc.
NXRTBH Cornerstone, LLC
NXRTBH Dana Point SM, Inc.
NXRTBH Dana Point, LLC
NXRTBH Foothill SM, Inc.
NXRTBH Foothill, LLC
NXRTBH Heatherstone SM, Inc.
NXRTBH Heatherstone, LLC
NXRTBH Hollister Tenant, LLC
NXRTBH Hollister, LLC
NXRTBH Madera SM, Inc.
NXRTBH Madera, LLC
NXRTBH McMillan, LLC
NXRTBH North Dallas 3, LLC
NXRTBH Old Farm II, LLC
NXRTBH Old Farm Tenant, LLC
NXRTBH Old Farm, LLC
NXRTBH Radbourne Lake, LLC
NXRTBH Rockledge, LLC
NXRTBH Sabal Palms, LLC
NXRTBH Steeplechase, LLC
(dba Southpoint Reserve at Stoney Creek)-VA
NXRTBH Stone Creek, LLC
NXRTBH Vanderbilt, LLC

NXRTBH Versailles SM, Inc.
 NXRTBH Versailles, LLC
 Oak Holdco, LLC
 Oaks CGC, LLC
 Okada Family Revocable Trust
 Oldenburg, Ltd.
 Pam Capital Funding GP Co. Ltd.
 Pam Capital Funding, L.P.
 PamCo Cayman Ltd.
 Park West 1700 Valley View Holdco, LLC
 Park West 2021 Valley View Holdco, LLC
 Park West Holdco, LLC
 Park West Portfolio Holdco, LLC
 Participants of Highland 401K Plan
 Patrick Willoughby-McCabe
 PCMG Trading Partners XXIII, L.P.
 PCMG Trading Partners XXIII, LP
 PDK Toys Holdco, LLC
 Pear Ridge Partners, LLC
 Penant Management GP, LLC
 Penant Management LP
 PensionDanmark Holding A/S
 PensionDanmark
 Pensionsforsikringsaktieselskab
 Peoria Place Development, LLC
 (30% cash contributions - profit participation
 only)
 Perilune Aero Equity Holdings One, LLC
 Perilune Aviation LLC
 PetroCap Incentive Holdings III. L.P.
 PetroCap Incentive Partners II GP, LLC
 PetroCap Incentive Partners II, L.P.
 PetroCap Incentive Partners III GP, LLC
 PetroCap Incentive Partners III, LP
 PetroCap Management Company LLC
 PetroCap Partners II GP, LLC
 PetroCap Partners II, L.P.
 PetroCap Partners III GP, LLC
 PetroCap Partners III, L.P.
 Pharmacy Ventures I, LLC
 Pharmacy Ventures II, LLC
 Pollack, Ltd.
 Powderhorn, LLC

PWM1 Holdings, LLC
 PWM1, LLC
 RADCO - Bay Meadows, LLLP
 RADCO - Bay Park, LLLP
 RADCO NREC Bay Meadows Holdings, LLC
 RADCO NREC Bay Park Holdings, LLC
 Ramarim, LLC
 Rand Advisors Series I Insurance Fund
 Rand Advisors Series II Insurance Fund
 Rand Advisors, LLC
 Rand PE Fund I, L.P.
 Rand PE Fund I, L.P. - Series 1
 Rand PE Fund Management, LLC
 Rand PE Holdco, LLC
 Realdania
 Red River CLO, Ltd.
 Red River Investors Corp.
 Riverview Partners SC, LLC
 Rockwall CDO II Ltd.
 Rockwall CDO II, Ltd.
 Rockwall CDO, Ltd.
 Rockwall Investors Corp.
 Rothko, Ltd.
 RTT Bella Solara, LLC
 RTT Bloom, LLC
 RTT Financial, Inc.
 RTT Hollister, LLC
 RTT Rockledge, LLC
 RTT Torreyana, LLC
 SALI Fund Partners, LLC
 SAS Management
 SAS Asset Recovery Ltd.
 San Diego County Employees Retirement
 Association
 Sandstone Pasadena Apartments, LLC
 Sandstone Pasadena, LLC
 Santa Barbara Foundation (third party)
 Saturn Oil & Gas LLC
 SBC Master Pension Trust
 Scott Matthew Siekielski
 SE Battleground Park, LLC
 SE Battleground Park, LLC

SE Glenview, LLC
 SE Governors Green Holdings, L.L.C.
 SE Governors Green Holdings, L.L.C.
(fka SCG Atlas Governors Green Holdings, L.L.C.)
 SE Governors Green I, LLC
 SE Governors Green II, LLC
 SE Governors Green II, LLC
 SE Governors Green REIT, L.L.C.
 SE Governors Green REIT, L.L.C.
(fka SCG Atlas Governors Green REIT, L.L.C.)

SE Governors Green, LLC
(fka SCG Atlas Governors Green, L.L.C.)
 SE Gulfstream Isles GP, LLC
 SE Gulfstream Isles GP, LLC
 SE Gulfstream Isles LP, LLC
 SE Gulfstream Isles LP, LLC
 SE Heights at Olde Towne, LLC
 SE Heights at Olde Towne, LLC
 SE Lakes at Renaissance Park GP I, LLC
 SE Lakes at Renaissance Park GP II, LLC
 SE Lakes at Renaissance Park GP II, LLC
 SE Lakes at Renaissance Park LP, LLC
 SE Lakes at Renaissance Park LP, LLC
 SE Multifamily Holdings LLC
 SE Multifamily Holdings, LLC
 SE Multifamily REIT Holdings LLC
 SE Myrtles at Olde Towne, LLC
 SE Myrtles at Olde Towne, LLC
 SE Oak Mill I Holdings, LLC
 SE Oak Mill I Holdings, LLC *(fka SCG Atlas Oak Mill I Holdings, L.L.C.)*
 SE Oak Mill I Owner, LLC *(fka SCG Atlas Oak Mill I, L.L.C.)*
 SE Oak Mill I REIT, LLC
 SE Oak Mill I REIT, LLC *(fka SCG Atlas Oak Mill I REIT, L.L.C.)*
 SE Oak Mill I, LLC
 SE Oak Mill I, LLC
 SE Oak Mill II Holdings, LLC
 SE Oak Mill II Holdings, LLC *(fka SCG Atlas Oak Mill II Holdings, L.L.C.)*

SE Oak Mill II Owner, LLC *(fka SCG Atlas Oak Mill II, L.L.C.)*
 SE Oak Mill II REIT, LLC
 SE Oak Mill II REIT, LLC *(fka SCG Atlas Oak Mill II REIT, L.L.C.)*
 SE Oak Mill II, LLC
 SE Oak Mill II, LLC
 SE Quail Landing, LLC
 SE River Walk, LLC
 SE Riverwalk, LLC
 SE SM, Inc.
 SE Stoney Ridge Holdings, L.L.C. *(fka SCG Atlas Stoney Ridge Holdings, L.L.C.)*
 SE Stoney Ridge Holdings, LLC
 SE Stoney Ridge I, LLC
 SE Stoney Ridge I, LLC
 SE Stoney Ridge II, LLC
 SE Stoney Ridge II, LLC
 SE Stoney Ridge REIT, L.L.C. *(fka SCG Atlas Stoney Ridge REIT, L.L.C.)*
 SE Stoney Ridge REIT, LLC
 SE Stoney Ridge, LLC *(fka SCG Atlas Stoney Ridge, L.L.C.)*
 SE Victoria Park, LLC
 SE Victoria Park, LLC
 Sentinel Re Holdings, Ltd.
 Sentinel Reinsurance Ltd.
 Sentinel Reinsurance Limited
 SFH1, LLC
 SFR WLIF I, LLC
(fka NexPoint WLIF I, LLC)
 SFR WLIF II, LLC
(NexPoint WLIF II, LLC)
 SFR WLIF III, LLC
(NexPoint WLIF III, LLC)
 SFR WLIF Manager, LLC
(NexPoint WLIF Manager, LLC)
 SFR WLIF, LLC
(NexPoint WLIF, LLC)
 SFR WLIF, LLC Series I
 SFR WLIF, LLC Series II
 SFR WLIF, LLC Series III
 SH Castle BioSciences, LLC

Small Cap Equity Sub, LLC
 Socially Responsible Equity Sub, LLC
 SOF Brandywine I Owner, L.P.
 SOF Brandywine II Owner, L.P.
 SOF-X GS Owner, L.P.
 Southfork Cayman Holdings, Ltd.
 Southfork CLO, Ltd.
 Specialty Financial Products Designated
 Activity Company (*fka Specialty Financial
 Products Limited*)
 Spiritus Life, Inc.
 SRL Sponsor LLC
 SRL Whisperwod LLC
 SRL Whisperwood Member LLC
 SRL Whisperwood Venture LLC
 SSB Assets LLC
 Starck, Ltd.
 Stemmons Hospitality, LLC
 Steve Shin
 Stonebridge Capital, Inc.
 Stonebridge-Highland Healthcare Private
 Equity Fund
 Strand Advisors III, Inc.
 Strand Advisors IV, LLC
 Strand Advisors IX, LLC
 Strand Advisors V, LLC
 Strand Advisors XIII, LLC
 Strand Advisors XVI, Inc.
 Strand Advisors, Inc.
 Stratford CLO, Ltd.
 Summers Landing Apartment Investors, L.P.
 Term Loan B
 (10% cash contributions - profit participation
 only)
 The Dallas Foundation
 The Dallas Foundation (third party)
 The Dondero Insurance Rabbi Trust
 The Dugaboy Investment Trust
 The Dugaboy Investment Trust U/T/A Dated
 Nov 15, 2010
 The Get Good Non-Exempt Trust No. 1
 The Get Good Non-Exempt Trust No. 2
 The Get Good Trust

The Mark and Pamela Okada Family Trust -
 Exempt Descendants' Trust
 The Mark and Pamela Okada Family Trust -
 Exempt Trust #2
 The Ohio State Life Insurance Company
 The Okada Family Foundation, Inc.
 The Okada Insurance Rabbi Trust
 The SLHC Trust
 The Trustees of Columbia University in the
 City of New York
 The Twentysix Investment Trust
 (Third Party Investor)
 Thomas A. Neville
 Thread 55, LLC
 Tihany, Ltd.
 Todd Travers
 Tranquility Lake Apartments Investors, L.P.
 Tuscany Acquisition, LLC
 Uptown at Cityplace Condominium
 Association, Inc.
 US Gaming OpCo, LLC
 US Gaming SPV, LLC
 US Gaming, LLC
 Valhalla CLO, Ltd.
 VB GP LLC
 VB Holding, LLC
 VB One, LLC
 VB OP Holdings LLC
 VBAnnex C GP, LLC
 VBAnnex C Ohio, LLC
 VBAnnex C, LP
 Ventoux Capital, LLC
 (Matt Goetz)
 VineBrook Annex B, L.P.
 VineBrook Annex I, L.P.
 VineBrook Homes Merger Sub II LLC
 VineBrook Homes Merger Sub LLC
 VineBrook Homes OP GP, LLC
 VineBrook Homes Operating Partnership, L.P.
 VineBrook Homes Trust, Inc.
 VineBrook Partners I, L.P.
 VineBrook Partners II, L.P.
 VineBrook Properties, LLC

Virginia Retirement System
Vizcaya Investment, LLC
Wake LV Holdings II, Ltd.
Wake LV Holdings, Ltd.
Walter Holdco GP, LLC
Walter Holdco I, Ltd.
Walter Holdco, L.P.
Warhol, Ltd.
Warren Chang
Westchester CLO, Ltd.
William L. Britain
Wright Ltd.
Wright, Ltd.
Yellow Metal Merchants, Inc.

EXHIBIT EE

accounting or seek approval of any court with respect to the administration of the Claimant Trust, or as a condition for managing any payment or distribution out of the Claimant Trust Assets.

(b) The Claimant Trustee shall provide quarterly reporting to the Oversight Board and Claimant Trust Beneficiaries of (i) the status of the Claimant Trust Assets, (ii) the balance of Cash held by the Claimant Trust (including in each of the Claimant Trust Expense Reserve and Disputed Claim Reserve), (iii) the determination and any re-determination, as applicable, of the total amount allocated to the Disputed Claim Reserve, (iv) the status of Disputed Claims and any resolutions thereof, (v) the status of any litigation, including the pursuit of the Causes of Action, (vi) the Reorganized Debtor's performance, and (vii) operating expenses; provided, however, that the Claimant Trustee may, with respect to any Member of the Oversight Board or Claimant Trust Beneficiary, redact any portion of such reports that relate to such Entity's Claim or Equity Interest, as applicable and any reporting provided to Claimant Trust Beneficiaries may be subject to such Claimant Trust Beneficiary's agreement to maintain confidentiality with respect to any non-public information.

(c) The Claimant Trustee may dispose some or all of the books and records maintained by the Claimant Trustee at the later of (i) such time as the Claimant Trustee determines, with the unanimous consent of the Oversight Board, that the continued possession or maintenance of such books and records is no longer necessary for the benefit of the Claimant Trust, or (ii) upon the termination and winding up of the Claimant Trust under Article IX of this Agreement; provided, however, the Claimant Trustee shall not dispose of any books and records related to the Estate Claims or Employee Claims without the consent of the Litigation Trustee. Notwithstanding the foregoing, the Claimant Trustee shall cause the Reorganized Debtor and its subsidiaries to retain such books and records, and for such periods, as are required to be retained pursuant to Section 204-2 of the Investment Advisers Act or any other applicable laws, rules, or regulations.

3.13 Compensation and Reimbursement; Engagement of Professionals.

(a) Compensation and Expenses.

(i) Compensation. As compensation for any services rendered by the Claimant Trustee in connection with this Agreement, the Claimant Trustee shall receive compensation of \$150,000 per month ~~-(the "Base Salary")~~. Within the first forty-five days following the Confirmation Date, the Claimant Trustee, on the one hand, and the Committee, if prior to the Effective Date, or the Oversight Board, if on or after the Effective Date, on the other, will negotiate go-forward compensation for the Claimant Trustee which will include (a) ~~the Base Salary~~ a base salary, (b) a success fee, and (c) severance.

(ii) Expense Reimbursements. All reasonable out-of-pocket expenses of the Claimant Trustee in the performance of his or her duties hereunder, shall be reimbursed as Claimant Trust Expenses paid by the Claimant Trust.

EXHIBIT FF

Schedule of Contracts and Leases to Be Assumed

1. Advisory Services Agreement, dated November 21, 2011, effective June 20, 2011, by and between Carey International, Inc., and Highland Capital Management, L.P.
2. Amended and Restated Advisory Services Agreement, dated March 4, 2013, by and between Trussway Holdings, Inc., and Highland Capital Management, L.P.
3. Reference Portfolio Management Agreement, dated March 4, 2004, by and between Highland Capital Management, L.P., and Citibank N.A.
4. Advisory Services Agreement, dated May 25, 2011, by and between CCS Medical, Inc., and Highland Capital Management, L.P.
5. Amended and Restated Advisory Services Agreement, dated February 28, 2013, by and between Cornerstone Healthcare Group Holding, Inc., and Highland Capital Management, L.P.
6. Prime Brokerage Agreement by and between Jefferies LLC and Highland Capital Management, L.P., dated May 24, 2013.
7. Amended and Restated Shared Services Agreement, dated August 21, 2015, by and between Highland Capital Management, L.P., and Falcon E&P Opportunities GP, LLC.
8. Amended and Restated Administrative Services Agreement, effective as of August 21, 2015, by and between Highland Capital Management, L.P., and Petrocap Partners II GP, LLC.
9. Office Lease, between Crescent Investors, L.P., and Highland Capital Management, L.P.
10. Paylocity Corporation Services Agreement, between Highland Capital Management, L.P., and Paylocity Corporation, dated November 19, 2012.
11. Electronic Trading Services Agreement, between SunTrust Robinson Humphrey Inc., and Highland Capital Management, L.P., dated February 6, 2019.
12. Letter Agreement, between FTI Consulting, Inc., and Highland Capital Management, L.P., dated November 19, 2018.
13. Administrative Services Agreement, dated January 1, 2018, between Highland Capital Management, L.P., and Liberty Life Assurance Company of Boston.
14. Electronic Communications: Customer Authorization & Indemnification, between Highland Capital Management, L.P., and The Bank of New York Mellon Corporation, dated August 9, 2016.
15. Letter Agreement, dated August 9, 2016, Electronic Access Terms and Conditions, by and between The Bank of New York Mellon Trust Company, N.A., and Highland Capital Management, L.P.
16. Shared Services Agreement by and between Highland HCF Advisor, Ltd., and Highland Capital Management, L.P., dated effective October 27, 2017.

17. Sub-Advisory Agreement, by and between Highland HCF Advisors, Ltd., and Highland Capital Management, dated effective October 27, 2017.
18. Collateral Management Agreement, dated November 2, 2006, by and between Highland Credit Opportunities CDO Ltd. and Highland Capital Management, L.P.
19. Management Agreement, dated November 15, 2007, between Highland Restoration Capital Partners, L.P., Highland Restoration Capital Partners Offshore, L.P., Highland Restoration Capital Partners Master L.P., Highland Restoration Capital Partners GP, LLC, and Highland Capital Management, L.P.
20. Investment Management Agreement, between Highland Capital Multi-Strategy Fund, L.P., and Highland Capital Management, L.P., dated July 31, 2006.
21. Investment Management Agreement, between Highland Capital Multi-Strategy Master Fund, L.P., and Highland Capital Management, L.P., dated July 31, 2006.
22. Management Agreement, dated August 22, 2007, between and among Highland Capital Management, L.P., and Walkers Fund Services Limited, as trustee of Highland Credit Opportunities Japanese Unit Trust.
23. Third Amended and Restated Investment Management Agreement, by and among Highland Multi Strategy Credit Fund, Ltd., Highland Multi Strategy Credit Fund, L.P., and Highland Capital Management, L.P., dated November 1, 2013.
24. Investment Management Agreement, dated March 31, 2015, by and among Highland Select Equity Master Fund, L.P., Highland Select Equity Fund GP, L.P., and Highland Capital Management, L.P.
25. Amended and Restated Investment Management Agreement, dated February 27, 2017, by and among Highland Prometheus Master Fund L.P., Highland Prometheus Feeder Fund I, L.P., Highland Prometheus Feeder Fund II, L.P., Highland SunBridge GP, LLC, and Highland Capital Management, L.P.
26. Servicing Agreement, dated December 20, 2007, by and among Greenbriar CLO, Ltd., and Highland Capital Management, L.P.
27. Investment Management Agreement, dated November 1, 2007, by and between Longhorn Credit Funding, LLC, and Highland Capital Management, L.P. (as amended)
28. Reference Portfolio Management Agreement, dated August 1, 2016, by and between Highland Capital Management, L.P., and Valhalla CLO, Ltd.
29. Collateral Servicing Agreement, dated December 20, 2006, by and among Highland Park CDO I, Ltd., and Highland Capital Management, L.P.
30. Portfolio Management Agreement, dated March 15, 2005, by and among Southfork CLO Ltd., and Highland Capital Management, L.P.
31. Amended and Restated Portfolio Management Agreement, dated November 30, 2005, by and among Jaspar CLO Ltd., and Highland Capital Management, L.P.
32. Servicing Agreement, dated May 31, 2007, by and among Westchester CLO, Ltd., and Highland Capital Management, L.P.

33. Servicing Agreement, dated May 10, 2006, by and among Rockwall CDO Ltd. and Highland Capital Management, L.P. (as amended)
34. Portfolio Management Agreement, dated December 8, 2005, by and between Liberty CLO, Ltd., and Highland Capital Management, L.P.
35. Servicing Agreement, dated March 27, 2008, by and among Aberdeen Loan Funding, Ltd., and Highland Capital Management, L.P.
36. Servicing Agreement, dated May 9, 2007, by and among Rockwall CDO II Ltd. and Highland Capital Management, L.P.
37. Collateral Management Agreement, by and between, Highland Loan Funding V Ltd. and Highland Capital Management, L.P., dated August 1, 2001.
38. Collateral Management Agreement, dated August 18, 1999, by and between Highland Legacy Limited and Highland Capital Management, L.P.
39. Servicing Agreement, dated November 30, 2006, by and among Grayson CLO Ltd., and Highland Capital Management, L.P. (as amended)
40. Servicing Agreement, dated October 25, 2007, by and among Stratford CLO Ltd., and Highland Capital Management, L.P.
41. Servicing Agreement, dated August 3, 2006, by and among Red River CLO Ltd., and Highland Capital Management, L.P. (as amended)
42. Servicing Agreement, dated December 21, 2006, by and among Brentwood CLO, Ltd., and Highland Capital Management, L.P.
43. Servicing Agreement, dated March 13, 2007, by and among Eastland CLO Ltd., and Highland Capital Management, L.P.
44. Portfolio Management, Agreement, dated October 13, 2005, by and among Gleneagles CLO, Ltd., and Highland Capital Management, L.P.
45. AT&T Managed Internet Service, between Highland Capital Management, L.P. and AT&T Corp., dated February 24, 2015.
46. ViaWest, Master Service Agreement, dated October 3, 2011, between Highland Capital Management, L.P. and ViaWest
47. Stockholders' Agreement, dated April 15, 2005, by and between American Banknote Corporation and Highland Capital Management, L.P.
48. Stockholders' Agreement and Amendment No. 1, dated January 25, 2011, by and between Carey Holdings, Inc. and Highland Capital Management, L.P.
49. Stockholders' Agreement and Amendment, dated March 24, 2010, by and between Cornerstone Healthcare Group Holding, Inc. and Highland Capital Management, L.P.
50. Members' Agreement and Amendment, dated November 15, 2017, by and between Highland CLO Funding, Ltd. and Highland Capital Management, L.P.
51. Stock Purchase and Sale Agreement and Amendment, dated January 16, 2013, by and between Progenics Pharmaceuticals, Inc. and Highland Capital Management, L.P.

52. Stockholders' Agreement and Amendments, dated October 24, 2008, by and between JHT Holdings, Inc. and Highland Capital Management, L.P.
53. Amended and Restated Limited Partnership Agreement of Highland Dynamic Income Fund, L.P., dated February 25, 2013, by and between Highland Dynamic Income Fund GP, LLC and Highland Capital Management, L.P.
54. Highland Multi-Strategy Fund, L.P. Limited Partnership Agreement, dated July 6, 2006, by and between Highland Multi-Strategy Fund GP, L.P. and Highland Capital Management, L.P.
55. Operating Agreement of HE Capital, LLC (as amended), dated September 27, 2007, by and between ENA Capital, LLC Ellman Management Group, Inc. and Highland Capital Management, L.P.
56. Limited Liability Company Agreement of Highland Multi-Strategy Onshore Master SubFund II, LLC, dated February 27, 2007, by and between Highland Multi-Strategy Master Fund, L.P. and Highland Capital Management, L.P.
57. Limited Liability Company Agreement of Highland Multi-Strategy Onshore Master SubFund, LLC, dated July 19, 2006, by and between Highland Multi-Strategy Master Fund, L.P. and Highland Capital Management, L.P.
58. Highland Capital Management, L.P., Limited Liability Company Agreement of Highland Receivables Finance 1, LLC, by and between Highland Capital Management, L.P. and Highland Capital Management, L.P.
59. Agreement of Limited Partnership of Highland Restoration Capital Partners, L.P. and Amendments, dated November 6, 2007, by and between Highland Restoration Capital Partners GP, LLC and Highland Capital Management, L.P.
60. Agreement of Limited Partnership of Highland Select Equity Fund GP, L.P., dated October 2005, by and between Highland Select Equity Fund GP, LLC and Highland Capital Management, L.P.
61. Agreement of Limited Partnership of Penant Management LP, dated December 12, 2012, by and between Penant Management GP, LLC and Highland Capital Management, L.P.
62. Agreement of Limited Partnership of Petrocap Incentive Partners III, LP, dated April 12, 2018, by and between Petrocap Incentive Partners III GP, LLC, Petrocap Incentive Holdings III, LP and Highland Capital Management, L.P.
63. Amended and Restated Agreement of Limited Partnership of Petrocap Partners II, LP, dated October 30, 2014, by and between Petrocap Partners II GP, LLC, Petrocap Incentive Partners II, LP and Highland Capital Management, L.P.
64. Agreement of Limited Partnership of Highland Credit Opportunities CDO GP, L.P., dated December 29, 2005, by and between Highland Credit Opportunities CDO GP, LLC and Highland Capital Management, L.P.
65. Fourth Amended and Restated Limited Partnership Agreement of Highland Multi Strategy Credit Fund, L.P., dated November 1, 2014, by and between Highland Multi Strategy Credit Fund GP, L.P. and Highland Capital Management, L.P.

66. DUO Security, 2 factor authentication, by and between DUO Security and Highland Capital Management, L.P.
67. GoDaddy Domain Registrations, by and between GoDaddy and Highland Capital Management, L.P.
68. Highland Loan Fund, Ltd. et al, Investment Management Agreement, dated July 31, 2001, by and between Highland Loan Fund, Ltd. et al and Highland Capital Management, L.P.
69. E Mailflow Monitoring, by and between Mxtoolbox and Highland Capital Management, L.P.
70. Cloud single sign on for HR related employee login, by and between Onelogin and Highland Capital Management, L.P.
71. Collateral Management Agreement, dated May 19, 1998, by and between Pam Capital Funding LP, Ranger Asset Mgt LP and Highland Capital Management, L.P.
72. Collateral Management Agreement, dated August 6, 1997, by and between Pamco Cayman Ltd., Ranger Asset Mgt LP and Highland Capital Management, L.P.
73. Order Addenda, dated January 28, 2020, by and between CenturyLink Communications, LLC and Highland Capital Management, L.P.
74. Service Agreement (as amended), dated April 1, 2005, by and between Intex Solutions, Inc. and Highland Capital Management, L.P.
75. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Red River CLO Ltd. et al
76. Interim Collateral Management Agreement, June 15, 2005, between Highland Capital Management, L.P. and Rockwall CDO Ltd
77. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Rockwall CDO Ltd
78. Collateral Servicing Agreement dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.; The Bank of New York Trust Company, National Association
79. Representations and Warranties Agreement, dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.
80. Collateral Administration Agreement, dated March 27, 2008, between Highland Capital Management, L.P. and Aberdeen Loan Funding, Ltd.; State Street Bank and Trust Company
81. Collateral Administration Agreement, dated December 20, 2007, between Highland Capital Management, L.P. and Greenbriar CLO, Ltd.; State Street Bank and Trust Company
82. Collateral Acquisition Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd

83. Collateral Administration Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd. and Investors Bank and Trust Company
84. Collateral Administration Agreement, dated October 13, 2005, between Highland Capital Management, L.P. and Gleneagles CLO, Ltd.; JPMorgan Chase Bank, National Association
85. Collateral Acquisition Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.
86. Collateral Administration Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.; Investors Bank & Trust Company
87. Collateral Acquisition Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.
88. Collateral Administration Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.; U.S. Bank National Association
89. Master Warehousing and Participation Agreement, dated April 19, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company
90. Master Warehousing and Participation Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
91. Master Warehousing and Participation Agreement (Amendment No. 2), dated May 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
92. Master Warehousing and Participation Agreement (Amendment No. 1), dated April 12, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
93. Master Warehousing and Participation Agreement (Amendment No. 3), dated June 22, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
94. Master Warehousing and Participation Agreement (Amendment No. 4), dated July 17, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
95. Collateral Administration Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; U.S. Bank National Association; IXIS Financial Products Inc.
96. Collateral Administration Agreement, dated April 18, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company; U.S. Bank National Association
97. Master Participation Agreement, dated June 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Grand Central Asset Trust

98. A&R Asset Acquisition Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Smith Barney Inc.; Highland Loan Funding V Ltd.
99. A&R Master Participation Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Brothers Holding Company; Highland Loan Funding V Ltd.
100. Collateral Acquisition Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.
101. Collateral Administration Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.; JPMorgan Chase Bank, National Association
102. Master Warehousing and Participation Agreement, dated March 24, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.
103. Master Warehousing and Participation Agreement (Amendment No. 1), dated May 16, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.
104. Securities Account Control Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Highland CDO Opportunity Fund, Ltd.; JPMorgan Chase Bank, National Association
105. Collateral Administration Agreement, dated December 8, 2005, between Highland Capital Management, L.P. and Liberty CLO Ltd.
106. Collateral Administration Agreement, dated May 10, 2006, between Highland Capital Management, L.P. and Rockwall CDO Ltd; JPMorgan Chase Bank, National Association
107. Collateral Administration Agreement, dated May 9, 2007, between Highland Capital Management, L.P. and Rockwall CDO II, Ltd.; Investors Bank & Trust Company
108. Collateral Administration Agreement, dated March 15, 2005, between Highland Capital Management, L.P. and Southfork CLO Ltd.; JPMorgan Chase Bank, National Association
109. Collateral Administration Agreement, dated October 25, 2007, between Highland Capital Management, L.P. and Stratford CLO Ltd.; State Street
110. Collateral Administration Agreement, dated August 18, 2004, between Highland Capital Management, L.P. and Valhalla CLO, Ltd.; JPMorgan Chase Bank
111. Extension/Buy-Out Agreement, dated August 18, 2004, between Highland Capital Management, L.P. and Citigroup Financial Products Inc.; Citigroup Global Markets Inc.
112. Collateral Acquisition Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.
113. Collateral Administration Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.; Investors Bank & Trust Company
114. Collateral Administration Agreement, dated December 21, 2006, between Highland Capital Management, L.P. and Brentwood CLO, Ltd.; Investors Bank & Trust Company

115. Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and James Seery
116. Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and John Dubel
117. Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and Russell Nelms
118. Colocation Service Order dated October 14, 2019 between Highland Capital Management and Dawn US Holdings, LLC d/b/a Evoque Date Center Solutions
119. Tradesuite Web Module Services/Agreement between Highland Capital Management and DTCC ITP LLC
120. Bloomberg (Terminal) Agreement No. 306371 between Highland Capital Management and Bloomberg Finance, L.P.¹
121. Master Service Agreement between Highland Capital Management and Via West
122. Amendment to Bloomberg Order Management System Addendum and Bloomberg Order Management System Schedule of Services Account No. 167969 between Highland Capital Management and Bloomberg Finance, L.P.
123. Fourth Amendment to Software License and Services Agreement between Highland Capital Management and Markit WSO Corporation
124. Master Services Agreement, First Amendment to Master Services Agreement, Second Amendment and Restatement of Master Services Agreement between Highland Capital Management and Siepe Services, LLC
125. Internet Agreement Account No. 831-000-7888-651 between Highland Capital Management and AT&T
126. Landline Fax Agreement Account No. 831-000-2532-176 between Highland Capital Management and AT&T
127. Amazon Web Services Account No. 353534426569 between Highland Capital Management and Amazon Web Service, Inc.
128. Website Hosting Agreement Account No. 325667 between Highland Capital Management and WP Engine

¹ The Debtor is currently in discussions with Bloomberg regarding the assumption of this agreement.

EXHIBIT 6

Final Term Sheet

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717) (*admitted pro hac vice*)

Ira D. Kharasch (CA Bar No. 109084) (*admitted pro hac vice*)

Maxim B. Litvak (Texas Bar No. 24002482)

Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)

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Counsel and Proposed Counsel for the Debtor and Debtor-in-Possession

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,¹

Debtor.

§
§
§
§
§
§

Chapter 11

Case No. 19-34054-sgj11

Related to Docket No. 281

NOTICE OF FINAL TERM SHEET

TO: (a) the Office of the United States Trustee; (b) the Office of the United States Attorney for the Northern District of Texas; (c) counsel to the Committee; (d) the Debtor's principal secured parties; and (e) parties requesting notice pursuant to Bankruptcy Rule 2002.

¹ The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



PLEASE TAKE NOTICE that on January 9, 2020, the Court held a hearing (the “Hearing”) on that certain *Motion of the Debtor for Approval of Settlement with the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course* [Dkt. No. 281] (the “Motion”) filed by Highland Capital Management, L.P., the debtor and debtor-in-possession (collectively, the “Debtor”) in the above-captioned chapter 11 bankruptcy case (the “Case”).

PLEASE TAKE FURTHER NOTICE that at the Hearing, the Debtor presented to the Court an amended and modified version of the Term Sheet (as defined in the Motion) and the exhibits thereto (collectively, the “Amended Term Sheet”).

PLEASE TAKE FURTHER NOTICE that the Amended Term Sheet is attached hereto as **Exhibit A**.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

Dated: January 14, 2020.

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
(*admitted pro hac vice*)
Ira D. Kharasch (CA Bar No. 109084)
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-and-

HAYWARD & ASSOCIATES PLLC

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*Counsel and Proposed Counsel for the Debtor and
Debtor-in-Possession*

EXHIBIT “A”

Highland Capital Management, L.P.

Preliminary Term Sheet

This term sheet (“Term Sheet”) outlines the principal terms of a proposed settlement between Highland Capital Management, L.P. (the “Debtor”) and the Official Committee of Unsecured Creditors (the “Committee”) in the chapter 11 case captioned In re Highland Capital Mgm’t, L.P., Case No. 19-34054 (SGJ) (the “Chapter 11 Case”), pending in the Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”), to resolve a good faith dispute between the parties related to the Debtor’s corporate governance, and specifically, the Committee’s various objections to certain relief being sought by the Debtors in the Chapter 11 Case [Del. Docket No. 125]. This Term Sheet shall be subject to approval by the Bankruptcy Court.

Topic	Proposed Terms
Parties	<p>Highland Capital Management, L.P. (the “<u>Debtor</u>”).</p> <p>The Official Committee of Unsecured Creditors of Highland Capital Management, L.P. (the “<u>Committee</u>”).</p>
Independent Directors	<p>The Debtor’s general partner, Strand Advisors, Inc., will appoint the following three (3) independent directors (the “<u>Independent Directors</u>”): James Seery, John Dubel, and Judge Russell Nelms. The Independent Directors will be granted exclusive control over the Debtor and its operations. Among other things, the Independent Directors shall conduct a review of all current employees as soon as practicable following the Independent Directors’ appointment, determine whether and which employees should be subject to a key employee retention plan and/or key employee incentive plan and, if applicable, propose plan(s) covering such employees. The appointment and powers of the Independent Directors and the corporate governance structure shall be pursuant to the documents attached hereto as <u>Exhibit A</u>, which documents shall be satisfactory to the Committee. Once appointed, the Independent Directors (i) cannot be removed without the Committee’s written consent or Order of the Court, and (ii) may be removed and replaced at the Committee’s direction upon approval of the Court (subject in all respects to the right of any party in interest, including the Debtor and the Independent Directors, to object to such removal and replacement).</p> <p>The Independent Directors shall be compensated in a manner to be determined with an understanding that the</p>

	<p>source of funding, whether directly or via reimbursement, will be the Debtor.</p> <p>As soon as practicable after their appointments, the Independent Directors shall, in consultation with the Committee, determine whether an interim Chief Executive Officer (the “<u>CEO</u>”) should be appointed for the Debtor. If the Independent Directors determine that appointment of a CEO is appropriate, the Independent Directors shall appoint a CEO acceptable to the Committee as soon as practicable, which may be one of the Independent Directors. Once appointed, the CEO cannot be removed without the Committee’s written consent or Order of the Court.</p> <p>The Committee shall have regular, direct access to the Independent Directors, <u>provided, however</u> that (1) if the communications include FTI Consulting Inc. (“<u>FTI</u>”), Development Specialists Inc. (“<u>DSI</u>”) shall also participate in such communications; and (2) if the communications include counsel, then either Debtor’s counsel or, if retained, counsel to the Independent Directors shall also participate in such communications.</p>
Role of Mr. James Dondero	<p>Upon approval of this Term Sheet by the Bankruptcy Court, Mr. Dondero will (1) resign from his position as a Board of Director of Strand Advisors, Inc., (2) resign as an officer of Strand Advisors, Inc., and (3) resign as President and CEO of the Debtor, and (4) will remain as an employee of the Debtor, including maintaining his title as portfolio manager for all funds and investment vehicles for which he currently holds that title; provided, however, that Mr. Dondero’s responsibilities in such capacities shall in all cases be as determined by the Independent Directors and Mr. Dondero shall receive no compensation for serving in such capacities. Mr. Dondero’s role as an employee of the Debtor will be subject at all times to the supervision, direction and authority of the Independent Directors. In the event the Independent Directors determine for any reason that the Debtor shall no longer retain Mr. Dondero as an employee, Mr. Dondero agrees to resign immediately upon such determination. Mr. Dondero shall not cause any Related Entity to terminate any agreements with the Debtor.</p>
CRO	<p>DSI shall, subject to approval of the Bankruptcy Court, be retained as chief restructuring officer (“<u>CRO</u>”) to the</p>

	<p>Debtor and report to and be directed by the Independent Directors and, if and once appointed, the CEO. The retention and scope of duties of DSI shall be pursuant to the Further Amended Retention Agreement, attached hereto as <u>Exhibit B</u>.</p> <p>DSI and all other Debtor professionals shall serve at the direction of the CEO, if any, and the Independent Directors.</p>
Estate Claims	<p>The Committee is granted standing to pursue any and all estate claims and causes of action against Mr. Dondero, Mr. Okada, other insiders of the Debtor, and each of the Related Entities, including any promissory notes held by any of the foregoing (collectively, the “<u>Estate Claims</u>”); provided, however, that the term Estate Claims will not include any estate claim or cause of action against any then-current employee of the Debtor other than Mr. Dondero.</p>
Document Management, Preservation, and Production	<p>The Debtor shall be subject to and comply with the document management, preservation, and production requirements attached hereto as <u>Exhibit C</u>, which requirements cannot be modified without the consent of the Committee or Court order (the “<u>Document Production Protocol</u>”).</p> <p>Solely with respect to the investigation and pursuit of Estate Claims, the document production protocol will acknowledge that the Committee will have access to the privileged documents and communications that are within the Debtor’s possession, custody, or control (“<u>Shared Privilege</u>”).</p> <p>With respect to determining if any particular document is subject to the Shared Privilege, the following process shall be followed: (i) the Committee will request documents from the Debtor, (ii) the Debtor shall log all documents requested but withheld on the basis of privilege, (iii) the Debtor shall not withhold documents it understands to be subject to the Shared Privilege; (iv) the Committee will identify each additional document on the log that the Committee believes is subject to the Shared Privilege, and (v) a special master or other third party neutral agreed to by the Committee and the Debtor shall make a determination if such documents are subject to the Shared Privilege. The Committee further agrees that the production of any particular document by</p>

	the Debtor under this process will not be used as a basis for a claim of subject matter waiver.
Reporting Requirements	The Debtor shall be subject to and comply with the reporting requirements attached hereto as <u>Exhibit D</u> , which reporting requirements cannot be modified without the consent of the Committee or Court order (the “ <u>Reporting Requirements</u> ”).
Plan Exclusivity	The Independent Directors may elect to waive the Debtor’s exclusive right to file a plan under section 1121 of the Bankruptcy Code.
Operating Protocols	The Debtor shall comply with the operating protocols set forth in <u>Exhibit D</u> hereto, regarding the Debtor’s operation in the ordinary course of business, which protocols cannot be modified without the consent of the Committee or Court order.
Reservation of Rights	This agreement is without prejudice to the Committee’s rights to, among other things, seek the appointment of a trustee or examiner at a later date. Nothing herein shall constitute or be construed as a waiver of any right of the Debtor or any other party in interest to contest the appointment of a trustee or examiner, and all such rights are expressly reserved.

Exhibit A

Debtor's Corporate Governance Documents

WRITTEN CONSENT OF SOLE STOCKHOLDER AND DIRECTOR

OF

STRAND ADVISORS, INC.

January 9, 2020

Pursuant to the provisions of the General Corporation Law of the State of Delaware (the “DGCL”) and consistent with the provisions of the Certificate of Incorporation (the “Certificate”) and Bylaws (the “Bylaws”) of Strand Advisors, Inc., a Delaware corporation (the “Company”), the undersigned, being the holder of all of the issued and outstanding shares of common stock, par value \$0.01 per share, of the Company and the sole director of the Company (the “Stockholder”), acting by written consent without a meeting pursuant to Section 228 of the DGCL and Article IV, Section 6, and Article XII of the Bylaws, does hereby consent to the adoption of the following resolutions and to the taking of the actions contemplated thereby, in each case with the same force and effect as if presented to and adopted at a meeting of the stockholders:

I. AMENDMENT OF BYLAWS

WHEREAS, it is acknowledged that the Board of Directors of the Company (the “Board”) has heretofore been fixed at one (1) and that the Board currently consists of James Dondero;

WHEREAS, pursuant to Article XII of the Bylaws, the Stockholder wishes to amend the Bylaws in the manner set forth on **Appendix A** hereto (the “Bylaws Amendment”) to increase the size of the Board from one (1) to three (3) directors, and to add certain provisions respecting director qualifications and the removal of directors; and

NOW, THEREFORE, BE IT RESOLVED, that the Bylaws Amendment is hereby authorized and approved, and the Board is increased from one (1) to three (3) directors;

RESOLVED FURTHER, that any officer of the Company is authorized to take any such actions as may be required to effectuate the Bylaws Amendment; and

RESOLVED FURTHER, that any action taken by any officer of the Company on or prior to the date hereof to effectuate such Bylaws Amendment is hereby authorized and affirmed.

II. ELECTION OF DIRECTORS

WHEREAS, the Stockholder desires to appoint James Seery, John Dubel, and Russell Nelms to the Board and desires that such individuals constitute the whole Board;

NOW, THEREFORE, BE IT RESOLVED, that James Seery, John Dubel, and Russell Nelms, having consented to act as such, be, and each of them hereby is, appointed as a director, to serve as a director of the Company and to hold such office until such director’s respective successor shall have been duly elected or appointed and shall qualify, or until such director’s death, resignation or removal;

RESOLVED FURTHER, that any officer of the Company is authorized to take any such actions as

may be required to effectuate the appointment of the foregoing directors, including executing an indemnification agreement in favor of such directors in substantially the form attached hereto as **Appendix B** (each, an “Indemnification Agreement”);

RESOLVED FURTHER, that any action taken by any officer of the Company on or prior to the date hereof to effectuate the appointment of such directors, including the execution of an Indemnification Agreement, is hereby authorized and affirmed.

RESOLVED FURTHER, that James Dondero and any other directors of the Company are hereby removed as directors of the Company;

RESOLVED FURTHER, that the directors appointed pursuant to these resolutions shall, pursuant to the terms of the Bylaws, appoint a Chairman of the Board.

III. STIPULATION WITH THE BANKRUPTCY COURT

WHEREAS, on October 16, 2019, Highland Capital Management, L.P. (“HCMLP”) filed for chapter 11 bankruptcy protection in the Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the “Bankruptcy Case”);

WHEREAS, the Company is the general partner for HCMLP;

WHEREAS, the Bankruptcy Case was transferred to the Bankruptcy Court for the Northern District of Texas, Case No. 19-34054-sgj11 (the “Texas Court”) by order of the Bankruptcy Court for the District of Delaware on December 4, 2019;

WHEREAS, the Company and the Stockholder wish to enter into a stipulation (the “Stipulation”) with HCMLP and the Official Unsecured Creditors Committee appointed in the Bankruptcy Case (the “Committee”), such Stipulation to be approved by the Texas Court, whereby the Stockholder will agree (a) not to transfer or assign his shares in the Company or exercise the voting power of such shares to remove any member of the Board appointed pursuant to these resolutions or further change the authorized number of directors from three (3) directors; (b) to exercise the voting power of his shares so as to cause each member of the Board appointed by these resolutions to be re-elected upon the expiration of his or her term; (c) upon the death, disability, or resignation of a member of the Board, will exercise the voting power of such shares so as to cause the resulting vacancy to be filled by a successor that is both independent and (i) acceptable to the Stockholder and the Committee or (ii) selected by the remaining members of the Board; and (d) not take any action or exercise the voting power of such shares in any way that is inconsistent with the term sheet agreed to by HCMLP and the Committee and any order of the Texas Court approving such agreement and compromise between HCMLP and the Committee;

WHEREAS, for purposes of the Stipulation, “independent” would exclude the Stockholder, any affiliate of the Stockholder, and any member of management of the Company; and

WHEREAS, it is in the intent of the parties that the Stipulation will no longer be effective or bind the Company or the Stockholder following the termination of the Bankruptcy Case.

NOW, THEREFORE, BE IT RESOLVED, that the Company is authorized to take such actions as may be necessary to enter into and effectuate the Stipulation in the manner and on the terms set forth above, including, but not limited to, further amending the Certificate, Bylaws, or any other corporate governance documents; and

RESOLVED FURTHER, that Scott Ellington, as an officer of the Company, is authorized to take any such actions as may be required to enter into and effectuate the Stipulation in the manner set forth herein; and

RESOLVED FURTHER, that any action taken by Scott Ellington or any other officer of the Company on or prior to the date hereof to effectuate such Stipulation is hereby authorized and affirmed.

[Signature pages follow.]

IN WITNESS WHEREOF, the undersigned has executed this Written Consent as of the respective date and year first appearing above.

STOCKHOLDER:

James Dondero

[Signature Page to Written Consent of Sole Stockholder of Strand Advisors, Inc.]

**First Amendment to Bylaws of
Strand Advisors, Inc.**

Strand Advisors, Inc. (the “Company”), a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware, does hereby certify that the Company’s sole stockholder, acting by written consent without a meeting, resolved to amend the Company’s Bylaws (the “Bylaws”) as follows:

1. Article III, Section 2, of the Bylaws is hereby deleted in its entirety and replaced with the following:

Section 2. Number of Directors. The number of directors which shall constitute the whole Board shall be three (3).

2. Article III, Section 5, of the Bylaws is hereby deleted in its entirety and replaced with the following:

Section 5. Director Qualifications. Each director appointed to serve on the Board shall (A) (i) be an independent director, (ii) not be affiliated with the corporation’s stockholders, and (iii) not be an officer of the corporation; and (B) have been (x) nominated by the official committee of unsecured creditors (the “Committee”) appointed in the chapter 11 bankruptcy of Highland Capital Management, L.P. (the “Debtor”) currently pending in the United States Bankruptcy Court for the Northern District of Texas (the “Court”), Case No. 19-34054-sgj11 and reasonably acceptable to the stockholders; (y) nominated by the stockholders and acceptable to the Committee; or (z) selected by the duly appointed independent directors.

3. The following shall be added as Section 6 to Article III of the Bylaws:

Section 6. Removal of Directors. Once appointed, the independent directors (i) cannot be removed without the Committee’s written consent or Order of the Court, and (ii) may be removed and replaced at the Committee’s direction upon approval of the Court (subject in all respects to the right of any party in interest, including the Debtor and the independent directors, to object to such removal and replacement).

Except as expressly amended hereby, the terms of the Company’s Bylaws shall remain in full force and effect.

[Signature Page Follows]

IN WITNESS WHEREOF, the Company has caused this amendment to be signed this 9th day of January, 2020.

STRAND ADVISORS, INC.

By: Scott Ellington
Its: Secretary

INSERT STRAND ADVISORS, INC. LETTERHEAD

[_____]

[NAME]
[ADDRESS]
[ADDRESS]
[ADDRESS]

Re: Strand Advisors, Inc. – Director Agreement

Dear [REDACTED]:

On behalf of Strand Advisors, Inc. (the “Company”), I am pleased to have you join the Company’s Board of Directors. This letter sets forth the terms of the Director Agreement (the “Agreement”) that the Company is offering to you.

1. APPOINTMENT TO THE BOARD OF DIRECTORS.

a. Title, Term and Responsibilities.

i. Subject to terms set forth herein, the Company agrees to appoint you to serve as a Director on the Company’s Board of Directors (the “Board”), and you hereby accept such appointment the date you sign this Agreement (the “Effective Date”). You will serve as a Director of the Board from the Effective Date until you voluntarily resign, are removed from the Board, or are not re-elected (the “Term”). Your rights, duties and obligations as a Director shall be governed by the Certificate of Incorporation and Bylaws of the Company, each as amended from time to time (collectively, the “Governing Documents”), except that where the Governing Documents conflict with this Agreement, this Agreement shall control.

ii. You acknowledge and understand that the Company is the general partner of Highland Capital Management, L.P. (“HCMLP”) and that HCMLP is currently the debtor in possession in a chapter 11 bankruptcy proceeding (the “Bankruptcy”) pending in the United States Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”). Your rights, duties, and obligations may in certain instances require your involvement, either directly or indirectly, in the Bankruptcy and such rights, duties, and obligations may be impacted in whole or in part by the Bankruptcy.

b. Mandatory Board Meeting Attendance. As a Director, you agree to apply all reasonable efforts to attend each regular meeting of the Board. You also agree to devote sufficient time to matters that may arise at the Company from time to time that require your attention as a Director.

c. Independent Contractor. Under this Agreement, your relationship with the Company will be that of an independent contractor as you will not be an employee of the Company nor eligible to participate in regular employee benefit and compensation plans of the Company.

d. Information Provided by the Company. The Company shall: (i) provide you with reasonable access to management and other representatives of the Company and HCMLP; and (ii) furnish all data, material, and other information concerning the business, assets, liabilities, operations, cash flows, properties, financial condition and prospects of the Company and HCMLP that you request in connection with the services to be provided to the Company. You will rely, without further independent verification,

on the accuracy and completeness of all publicly available information and information that is furnished by or on behalf of the Company and otherwise reviewed by you in connection with the services performed for the Company. The Company acknowledges and agrees that you are not responsible for the accuracy or completeness of such information and shall not be responsible for any inaccuracies or omissions therein, provided that if you become aware of material inaccuracies or errors in any such information you shall promptly notify the Board of such errors, inaccuracies or concerns.

2. COMPENSATION AND BENEFITS.

a. Retainer. The Company will pay you a retainer for each month you serve on the Board (the “Retainer”) to be paid in monthly installments of (a) \$60,000 for each of the first three months, (b) \$50,000 for each of the next three months, and (c) \$30,000 for each of the following six months. The parties will re-visit the Retainer after the sixth month. The Company’s obligation to pay the Retainer will cease upon the termination of the Term.

b. Expense Reimbursement. The Company will reimburse you for all reasonable travel or other expenses, including expenses of counsel, incurred by you in connection with your services hereunder, in accordance with the Company’s expense reimbursement policy as in effect from time to time.

c. Invoices; Payment.

i. In order to receive the compensation and reimbursement set forth in this Section 2, you are required to send to the Company regular monthly invoices indicating your fees, costs, and expenses incurred. Payment of the Retainer will be due on the first business day of each month regardless of whether an invoice has been provided. Reimbursement of expenses will also occur on the first business day of each month, subject to the Company’s receipt of appropriate documentation required by the Company’s expenses reimbursement policy.

ii. You further agree that the Company’s obligation to pay the compensation and reimbursement set forth in this Section 2 is conditioned in all respects on the entry of a final order in the court overseeing the Bankruptcy that authorizes and requires HCMLP to reimburse the Company for all such payments to you.

d. Indemnification; D&O Insurance. You will receive indemnification as a Director of the Company on the terms set forth in that certain Indemnification Agreement, dated [REDACTED], a copy of which is attached hereto as **Appendix A** (the “Indemnification Agreement”). You will also be provided coverage under the Company’s directors’ and officers’ insurance policy as set forth in the Indemnification Agreement.

e. Tax Indemnification. You acknowledge that the Company will not be responsible for the payment of any federal or state taxes that might be assessed with respect to the Retainer and you agree to be responsible for all such taxes.

3. PROPRIETARY INFORMATION OBLIGATIONS.

a. Proprietary Information. You agree that during the Term and thereafter that you will take all steps reasonably necessary to hold all information of the Company, its affiliates, and related entities, which a reasonable person would believe to be confidential or proprietary information, in trust and confidence, and not disclose any such confidential or proprietary information to any third party without first obtaining the Company’s express written consent on a case-by-case basis.

b. Third Party Information. The Company has received and will in the future receive from third parties confidential or proprietary information (“Third Party Information”) subject to a duty on the Company’s part to maintain the confidentiality of such information and to use it only for certain limited purposes. You agree to hold such Third Party Information in confidence and not to disclose it to anyone (other than Company personnel who need to know such information in connection with their work for Company) or to use, except in connection with your services for Company under this Agreement, Third Party Information unless expressly authorized in writing by the Company.

c. Return of Company Property. Upon the end of the Term or upon the Company’s earlier request, you agree to deliver to the Company any and all notes, materials and documents, together with any copies thereof, which contain or disclose any confidential or proprietary information or Third Party Information.

4. OUTSIDE ACTIVITIES.

a. Investments and Interests. Except as permitted by Section 4(b), you agree not to participate in, directly or indirectly, any position or investment known by you to be materially adverse to the Company or any of its affiliates or related entities.

b. Activities. Except with the prior written consent of the Board, you will not during your tenure as a member of the Company’s Board undertake or engage in any other directorship, employment or business enterprise in direct competition with the Company or any of its affiliates or related entities, other than ones in which you are a passive investor or other activities in which you were a participant prior to your appointment to the Board as disclosed to the Company.

c. Other Agreements. You agree that you will not disclose to the Company or use on behalf of the Company any confidential information governed by any agreement between you and any third party except in accordance with such agreement.

5. TERMINATION OF DIRECTORSHIP.

a. Voluntary Resignation, Removal Pursuant to Bylaws. You may resign from the Board at any time with or without advance notice, with or without reason. Subject to any orders or agreements entered into in connection with the Bankruptcy, you may be removed from the Board at any time, for any reason, in any manner provided by the Governing Documents and applicable law.

b. Continuation. The provisions of this Agreement that give the parties rights or obligations beyond the termination of this Agreement will survive and continue to bind the parties.

c. Payment of Fees; Reimbursement. Following termination of this Agreement, any undisputed fees and expenses due to you will be remitted promptly following receipt by the Company of any outstanding invoices.

6. GENERAL PROVISIONS.

a. Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law. If any provision of this Agreement is held to be invalid, illegal or unenforceable such provision will be reformed, construed and enforced to render it valid, legal, and enforceable consistent with the intent of the parties insofar as possible.

b. Entire Agreement. This Agreement constitutes the entire agreement between you and the Company with respect to your service as a Director and supersedes any prior agreement, promise, representation or statement written between you and the Company with regard to this subject matter. It is entered into without reliance on any promise, representation, statement or agreement other than those expressly contained or incorporated herein, and it cannot be modified or amended except in a writing signed by the party or parties affected by such modification or amendment.

c. Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by you and the Company and our respective successors, assigns, heirs, executors and administrators, except that you may not assign any of your rights or duties hereunder.

d. Governing Law. This Agreement will be governed by the law of the State of Delaware as applied to contracts made and performed entirely within Delaware.

We are all delighted to be able to extend you this offer and look forward to working with you. To indicate your acceptance of the Company's offer, please sign and date this Agreement below.

Sincerely,

STRAND ADVISORS, INC.

By: Scott Ellington
Its: Secretary

[Signature Page Follows]

ACCEPTED AND AGREED:

[NAME]

Date: _____

INDEMNIFICATION AND GUARANTY AGREEMENT

This Indemnification and Guaranty Agreement (“**Agreement**”), dated as of [_____] , is by and between STRAND ADVISORS, INC., a Delaware corporation (the “**Company**”), HIGHLAND CAPITAL MANAGEMENT, LP, a Delaware partnership (the “**Debtor**”) (solely as to Section 29 hereunder), and [_____] (the “**Indemnitee**”).

WHEREAS, the Company is the general partner of the Debtor and, in such capacity, manages the business affairs of the Debtor;

WHEREAS, Indemnitee has agreed to serve as a member of the Company’s board of directors (the “**Board**”) effective as of the date hereof;

WHEREAS, the Board has determined that enhancing the ability of the Company, on its own behalf and for the benefit of the Debtor, to retain and attract as directors the most capable Persons is in the best interests of the Company and the Debtor and that the Company and the Debtor therefore should seek to assure such Persons that indemnification and insurance coverage is available; and

WHEREAS, in recognition of the need to provide Indemnitee with protection against personal liability, in order to procure Indemnitee’s service as a director of the Company, in order to enhance Indemnitee’s ability to serve the Company in an effective manner and in order to provide such protection pursuant to express contract rights (intended to be enforceable irrespective of, among other things, any amendment to the Company’s Bylaws (as may be amended further from time to time, the “**Bylaws**”), any change in the composition of the Board or any change in control, business combination or similar transaction relating to the Company), the Company wishes to provide in this Agreement for the indemnification of, and the advancement of Expenses (as defined in Section 1(g) below) to, Indemnitee as set forth in this Agreement and for the coverage of Indemnitee under the Company’s directors’ and officers’ liability or similar insurance policies (“**D&O Insurance**”).

NOW, THEREFORE, in consideration of the foregoing and the Indemnitee’s agreement to provide services to the Company, the parties (including the Debtor solely as to Section 29 hereunder) agree as follows:

1. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

(a) “**Change in Control**” means the occurrence of any of the following: (i) the direct or indirect sale, lease, transfer, conveyance or other disposition, in one or a series of related transactions (including any merger or consolidation or whether by operation of law or otherwise), of all or substantially all of the properties or assets of the Company and its subsidiaries, to a third party purchaser (or group of affiliated third party purchasers) or (ii) the consummation of any transaction (including any merger or consolidation or whether by operation of law or otherwise), the result of which is that a third party purchaser (or group of affiliated third party purchasers) becomes the beneficial

owner, directly or indirectly, of more than fifty percent (50%) of the then outstanding Shares or of the surviving entity of any such merger or consolidation.

(b) “**Claim**” means:

(i) any threatened, pending or completed action, suit, claim, demand, arbitration, inquiry, hearing, proceeding or alternative dispute resolution mechanism, or any actual, threatened or completed proceeding, including any and all appeals, in each case, whether brought by or in the right of the Company or otherwise, whether civil, criminal, administrative, arbitrative, investigative or other, whether formal or informal, and whether made pursuant to federal, state, local, foreign or other law, and whether or not commenced prior to the date of this Agreement, in which Indemnitee was, is or will be involved as a party or otherwise, by reason of or relating to either (a) any action or alleged action taken by Indemnitee (or failure or alleged failure to act) or of any action or alleged action (or failure or alleged failure to act) on Indemnitee’s part, while acting in his or her Corporate Status or (b) the fact that Indemnitee is or was serving at the request of the Company or any subsidiary of the Company as director, officer, employee, partner, member, manager, trustee, fiduciary or agent of another Enterprise, in each case, whether or not serving in such capacity at the time any Loss or Expense is paid or incurred for which indemnification or advancement of Expenses can be provided under this Agreement, except one initiated by Indemnitee to enforce his or her rights under this Agreement; or

(ii) any inquiry, hearing or investigation that the Indemnitee determines might lead to the institution of any such action, suit, proceeding or alternative dispute resolution mechanism.

(c) “**Controlled Entity**” means any corporation, limited liability company, partnership, joint venture, trust or other Enterprise, whether or not for profit, that is, directly or indirectly, controlled by the Company. For purposes of this definition, the term “control” means the possession, directly or indirectly, of the power to direct, or cause the direction of, the management or policies of an Enterprise, whether through the ownership of voting securities, through other voting rights, by contract or otherwise.

(d) “**Corporate Status**” means the status of a Person who is or was a director, officer, employee, partner, member, manager, trustee, fiduciary or agent of the Company or of any other Enterprise which such Person is or was serving at the request of the Company or any subsidiary of the Company. In addition to any service at the actual request of the Company, Indemnitee will be deemed, for purposes of this Agreement, to be serving or to have served at the request of the Company or any subsidiary of the Company as a director, officer, employee, partner, member, manager, trustee, fiduciary or agent of another Enterprise if Indemnitee is or was serving as a director, officer, employee, partner, member, manager, fiduciary, trustee or agent of such Enterprise and (i) such Enterprise is or at the time of such service was a Controlled Entity, (ii) such Enterprise is or at the time of such service was an employee benefit plan (or related trust) sponsored or maintained by the Company or a Controlled Entity or (iii) the Company or a

Controlled Entity, directly or indirectly, caused Indemnitee to be nominated, elected, appointed, designated, employed, engaged or selected to serve in such capacity.

(e) **“Disinterested Director”** means a director of the Company who is not and was not a party to the Claim in respect of which indemnification is sought by Indemnitee. Under no circumstances will James Dondero be considered a Disinterested Director.

(f) **“Enterprise”** means the Company or any subsidiary of the Company or any other corporation, partnership, limited liability company, joint venture, employee benefit plan, trust or other entity or other enterprise of which Indemnitee is or was serving at the request of the Company or any subsidiary of the Company in a Corporate Status.

(g) **“Expenses”** means any and all expenses, fees, including attorneys’, witnesses’ and experts’ fees, disbursements and retainers, court costs, transcript costs, travel expenses, duplicating, printing and binding costs, telephone charges, postage, fax transmission charges, secretarial services, delivery services fees, and all other fees, costs, disbursements and expenses paid or incurred in connection with investigating, defending, prosecuting, being a witness in or participating in (including on appeal), or preparing to defend, prosecute, be a witness or participate in, any Claim. Expenses also shall include (i) Expenses paid or incurred in connection with any appeal resulting from any Claim, including, without limitation, the premium, security for, and other costs relating to any cost bond, supersedeas bond, or other appeal bond or its equivalent, and (ii) for purposes of Section 4 only, Expenses incurred by Indemnitee in connection with the interpretation, enforcement or defense of Indemnitee’s rights under this Agreement, by litigation or otherwise. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(h) **“Exchange Act”** means the Securities Exchange Act of 1934, as amended, or any successor statute thereto, and the rules and regulations of the United States Securities and Exchange Commission promulgated thereunder.

(i) **“Expense Advance”** means any payment of Expenses advanced to Indemnitee by the Company pursuant to Section 4 or Section 5 hereof.

(j) **“Indemnifiable Event”** means any event or occurrence, whether occurring before, on or after the date of this Agreement, related to the fact that Indemnitee is or was a manager, director, officer, employee or agent of the Company or any subsidiary of the Company, or is or was serving at the request of the Company or any subsidiary of the Company as a manager, director, officer, employee, member, manager, trustee or agent of any other Enterprise or by reason of an action or inaction by Indemnitee in any such capacity (whether or not serving in such capacity at the time any Loss is incurred for which indemnification can be provided under this Agreement).

(k) **“Independent Counsel”** means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently performs, nor in the past three (3) years has performed, services for any of: (i) James Dondero, (ii) the

Company or Indemnatee (other than in connection with matters concerning Indemnatee under this Agreement or of other indemnitees under similar agreements), or (iii) any other party to the Claim giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term “Independent Counsel” shall not include any Person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnatee in an action to determine Indemnatee’s rights under this Agreement.

(l) “**Losses**” means any and all Expenses, damages, losses, liabilities, judgments, fines (including excise taxes and penalties assessed with respect to employee benefit plans and ERISA excise taxes), penalties (whether civil, criminal or other), amounts paid or payable in settlement, including any interest, assessments, any federal, state, local or foreign taxes imposed as a result of the actual or deemed receipt of any payments under this Agreement and all other charges paid or payable in connection with investigating, defending, being a witness in or participating in (including on appeal), or preparing to defend, be a witness or participate in, any Claim.

(m) “**Person**” means any individual, corporation, firm, partnership, joint venture, limited liability company, estate, trust, business association, organization, governmental entity or other entity and includes the meaning set forth in Sections 13(d) and 14(d) of the Exchange Act.

(n) “**Shares**” means an ownership interest of a member in the Company, including each of the common shares of the Company or any other class or series of Shares designated by the Board.

(o) References to “**serving at the request of the Company**” include any service as a director, manager, officer, employee, representative or agent of the Company which imposes duties on, or involves services by, such director, manager, officer, employee or agent, including but not limited to any employee benefit plan, its participants or beneficiaries; and a Person who acted in good faith and in a manner he or she reasonably believed to be in and not opposed to the best interests of the Company in Indemnatee’s capacity as a director, manager, officer, employee, representative or agent of the Company, including but not limited to acting in the best interest of participants and beneficiaries of an employee benefit plan will be deemed to have acted in a manner “**not opposed to the best interests of the Company**” as referred to under applicable law or in this Agreement.

2. Indemnification.

(a) Subject to Section 9 and Section 10 of this Agreement, the Company shall indemnify and hold Indemnatee harmless, to the fullest extent permitted by the laws of the State of Delaware in effect on the date hereof, or as such laws may from time to time hereafter be amended to increase the scope of such permitted indemnification, against any and all Losses and Expenses if Indemnatee was or is or becomes a party to or participant in, or is threatened to be made a party to or participant in, any Claim by reason of or arising in part out of an Indemnifiable Event, including, without limitation, Claims

brought by or in the right of the Company, Claims brought by third parties, and Claims in which the Indemnitee is solely a witness.

(b) For the avoidance of doubt, the indemnification rights and obligations contained herein shall also extend to any Claim in which the Indemnitee was or is a party to, was or is threatened to be made a party to or was or is otherwise involved in any capacity in by reason of Indemnitee's Corporate Status as a fiduciary capacity with respect to an employee benefit plan. In connection therewith, if the Indemnitee has acted in good faith and in a manner which appeared to be consistent with the best interests of the participants and beneficiaries of an employee benefit plan and not opposed thereto, the Indemnitee shall be deemed to have acted in a manner not opposed to the best interests of the Company.

3. Contribution.

(a) Whether or not the indemnification provided in Section 2 is available, if, for any reason, Indemnitee shall elect or be required to pay all or any portion of any judgment or settlement in any Claim in which the Company is jointly liable with Indemnitee (or would be if joined in such Claim), the Company shall contribute to the amount of Losses paid or payable by Indemnitee in proportion to the relative benefits received by the Company and all officers, directors, managers or employees of the Company, other than Indemnitee, who are jointly liable with Indemnitee (or would be if joined in such Claim), on the one hand, and Indemnitee, on the other hand, from the transaction or events from which such Claim arose; provided, however, that the proportion determined on the basis of relative benefit may, to the extent necessary to conform to law, be further adjusted by reference to the relative fault of the Company and all officers, directors, managers or employees of the Company other than Indemnitee who are jointly liable with Indemnitee (or would be if joined in such Claim), on the one hand, and Indemnitee, on the other hand, in connection with the transaction or events that resulted in such Losses, as well as any other equitable considerations which applicable law may require to be considered. The relative fault of the Company and all officers, directors, managers or employees of the Company, other than Indemnitee, who are jointly liable with Indemnitee (or would be if joined in such Claim), on the one hand, and Indemnitee, on the other hand, shall be determined by reference to, among other things, the degree to which their actions were motivated by intent to gain personal profit or advantage, the degree to which their liability is primary or secondary and the degree to which their conduct is active or passive.

(b) The Company hereby agrees to fully indemnify and hold Indemnitee harmless from any claims of contribution which may be brought by officers, directors, managers or employees of the Company, other than Indemnitee, who may be jointly liable with Indemnitee.

(c) To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by Indemnitee, whether for judgments, fines, penalties, excise taxes,

amounts paid or to be paid in settlement and/or for Expenses, in connection with any Claim relating to an Indemnifiable Event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Claim in order to reflect (i) the relative benefits received by the Company and Indemnatee as a result of the event(s) and/or transaction(s) giving cause to such Claim; and/or (ii) the relative fault of the Company (and its directors, managers, officers, employees and agents) and Indemnatee in connection with such event(s) and/or transaction(s).

4. Advancement of Expenses. The Company shall, if requested by Indemnatee, advance, to the fullest extent permitted by law, to Indemnatee (an “**Expense Advance**”) any and all Expenses actually and reasonably paid or incurred (even if unpaid) by Indemnatee in connection with any Claim arising out of an Indemnifiable Event (whether prior to or after its final disposition). Indemnatee’s right to such advancement is not subject to the satisfaction of any standard of conduct. Without limiting the generality or effect of the foregoing, within thirty (30) business days after any request by Indemnatee, the Company shall, in accordance with such request, (a) pay such Expenses on behalf of Indemnatee, (b) advance to Indemnatee funds in an amount sufficient to pay such Expenses, or (c) reimburse Indemnatee for such Expenses. In connection with any request for Expense Advances, Indemnatee shall not be required to provide any documentation or information to the extent that the provision thereof would undermine or otherwise jeopardize attorney-client privilege. Execution and delivery to the Company of this Agreement by Indemnatee constitutes an undertaking by the Indemnatee to repay any amounts paid, advanced or reimbursed by the Company pursuant to this Section 4, the final sentence of Section 9(b), or Section 11(b) in respect of Expenses relating to, arising out of or resulting from any Claim in respect of which it shall be determined, pursuant to Section 9, following the final disposition of such Claim, that Indemnatee is not entitled to indemnification hereunder. No other form of undertaking shall be required other than the execution of this Agreement. Each Expense Advance will be unsecured and interest free and will be made by the Company without regard to Indemnatee’s ability to repay the Expense Advance.

5. Indemnification for Expenses in Enforcing Rights. To the fullest extent allowable under applicable law, the Company shall also indemnify against, and, if requested by Indemnatee, shall advance to Indemnatee subject to and in accordance with Section 4, any Expenses actually and reasonably paid or incurred (even if unpaid) by Indemnatee in connection with any action or proceeding by Indemnatee for (a) indemnification or reimbursement or advance payment of Expenses by the Company under any provision of this Agreement, or under any other agreement or provision of the Bylaws now or hereafter in effect relating to Claims relating to Indemnifiable Events, and/or (b) recovery under any D&O Insurance maintained by the Company, regardless of whether Indemnatee ultimately is determined to be entitled to such indemnification or insurance recovery, as the case may be. Indemnatee shall be required to reimburse the Company in the event that a final judicial determination is made that such action brought by Indemnatee was frivolous or not made in good faith.

6. Partial Indemnity. If Indemnatee is entitled under any provision of this Agreement to indemnification by the Company for a portion of any Losses in respect of a Claim

related to an Indemnifiable Event but not for the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion thereof to which Indemnitee is entitled.

7. Notification and Defense of Claims.

(a) Notification of Claims. Indemnitee shall notify the Company in writing as soon as reasonably practicable of any Claim which could relate to an Indemnifiable Event or for which Indemnitee could seek Expense Advances, including a brief description (based upon information then available to Indemnitee) of the nature of, and the facts underlying, such Claim, to the extent then known. The failure by Indemnitee to timely notify the Company hereunder shall not relieve the Company from any liability hereunder except to the extent the Company's ability to participate in the defense of such claim was materially and adversely affected by such failure. If at the time of the receipt of such notice, the Company has D&O Insurance or any other insurance in effect under which coverage for Claims related to Indemnifiable Events is potentially available, the Company shall give prompt written notice to the applicable insurers in accordance with the procedures, provisions, and terms set forth in the applicable policies. The Company shall provide to Indemnitee a copy of such notice delivered to the applicable insurers, and copies of all subsequent correspondence between the Company and such insurers regarding the Claim, in each case substantially concurrently with the delivery or receipt thereof by the Company.

(b) Defense of Claims. The Company shall be entitled to participate in the defense of any Claim relating to an Indemnifiable Event at its own expense and, except as otherwise provided below, to the extent the Company so wishes, it may assume the defense thereof with counsel reasonably satisfactory to Indemnitee. After notice from the Company to Indemnitee of its election to assume the defense of any such Claim, the Company shall not be liable to Indemnitee under this Agreement or otherwise for any Expenses subsequently directly incurred by Indemnitee in connection with Indemnitee's defense of such Claim other than reasonable costs of investigation or as otherwise provided below. Indemnitee shall have the right to employ its own legal counsel in such Claim, but all Expenses related to such counsel incurred after notice from the Company of its assumption of the defense shall be at Indemnitee's own expense; provided, however, that if (i) Indemnitee's employment of its own legal counsel has been authorized by the Company, (ii) Indemnitee has reasonably determined that there may be a conflict of interest between Indemnitee and the Company in the defense of such Claim, (iii) after a Change in Control, Indemnitee's employment of its own counsel has been approved by the Independent Counsel or (iv) the Company shall not in fact have employed counsel to assume the defense of such Claim, then Indemnitee shall be entitled to retain its own separate counsel (but not more than one law firm plus, if applicable, local counsel in respect of any such Claim) and all Expenses related to such separate counsel shall be borne by the Company.

8. Procedure upon Application for Indemnification. In order to obtain indemnification pursuant to this Agreement, Indemnitee shall submit to the Company a written request therefor, including in such request such documentation and information as

is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification following the final disposition of the Claim, provided that documentation and information need not be so provided to the extent that the provision thereof would undermine or otherwise jeopardize attorney-client privilege. Indemnification shall be made insofar as the Company determines Indemnitee is entitled to indemnification in accordance with Section 9 below.

9. Determination of Right to Indemnification.

(a) Mandatory Indemnification; Indemnification as a Witness.

(i) To the extent that Indemnitee shall have been successful on the merits or otherwise in defense of any Claim relating to an Indemnifiable Event or any portion thereof or in defense of any issue or matter therein, including without limitation dismissal without prejudice, Indemnitee shall be indemnified against all Losses relating to such Claim in accordance with Section 2, and no Standard of Conduct Determination (as defined in Section 9(b)) shall be required.

(ii) To the extent that Indemnitee's involvement in a Claim relating to an Indemnifiable Event is to prepare to serve and serve as a witness, and not as a party, the Indemnitee shall be indemnified against all Losses incurred in connection therewith to the fullest extent allowable by law and no Standard of Conduct Determination (as defined in Section 9(b)) shall be required.

(b) Standard of Conduct. To the extent that the provisions of Section 9(a) are inapplicable to a Claim related to an Indemnifiable Event that shall have been finally disposed of, any determination of whether Indemnitee has satisfied any applicable standard of conduct under Delaware law that is a legally required condition to indemnification of Indemnitee hereunder against Losses relating to such Claim and any determination that Expense Advances must be repaid to the Company (a "**Standard of Conduct Determination**") shall be made as follows:

(i) if no Change in Control has occurred, (A) by a majority vote of the Disinterested Directors, even if less than a quorum of the Board, (B) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum or (C) if there are no such Disinterested Directors, by Independent Counsel in a written opinion addressed to the Board, a copy of which shall be delivered to Indemnitee; and

(ii) if a Change in Control shall have occurred, (A) if the Indemnitee so requests in writing, by a majority vote of the Disinterested Directors, even if less than a quorum of the Board or (B) otherwise, by Independent Counsel in a written opinion addressed to the Board, a copy of which shall be delivered to Indemnitee.

Subject to Section 4, the Company shall indemnify and hold Indemnitee harmless against and, if requested by Indemnitee, shall reimburse Indemnitee for, or advance to Indemnitee, within thirty (30) business days of such request, any and all Expenses

incurred by Indemnitee in cooperating with the Person or Persons making such Standard of Conduct Determination.

(c) Making the Standard of Conduct Determination. The Company shall use its reasonable best efforts to cause any Standard of Conduct Determination required under Section 9(b) to be made as promptly as practicable. If the Person or Persons designated to make the Standard of Conduct Determination under Section 9(b) shall not have made a determination within ninety (90) days after the later of (A) receipt by the Company of a written request from Indemnitee for indemnification pursuant to Section 8 (the date of such receipt being the “**Notification Date**”) and (B) the selection of an Independent Counsel, if such determination is to be made by Independent Counsel, then Indemnitee shall be deemed to have satisfied the applicable standard of conduct; provided that such 90-day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the Person or Persons making such determination in good faith requires such additional time to obtain or evaluate information relating thereto. Notwithstanding anything in this Agreement to the contrary, no determination as to entitlement of Indemnitee to indemnification under this Agreement shall be required to be made prior to the final disposition of any Claim.

(d) Payment of Indemnification. If, in regard to any Losses:

(i) Indemnitee shall be entitled to indemnification pursuant to Section 9(a);

(ii) no Standard of Conduct Determination is legally required as a condition to indemnification of Indemnitee hereunder; or

(iii) Indemnitee has been determined or deemed pursuant to Section 9(b) or Section 9(c) to have satisfied the Standard of Conduct Determination,

then the Company shall pay to Indemnitee, within thirty (30) business days after the later of (A) the Notification Date or (B) the earliest date on which the applicable criterion specified in clause (i), (ii) or (iii) is satisfied, an amount equal to such Losses.

(e) Selection of Independent Counsel for Standard of Conduct Determination. If a Standard of Conduct Determination is to be made by Independent Counsel pursuant to Section 9(b)(i), the Independent Counsel shall be selected by the Board and the Company shall give written notice to Indemnitee advising him of the identity of the Independent Counsel so selected. If a Standard of Conduct Determination is to be made by Independent Counsel pursuant to Section 9(b)(ii), the Independent Counsel shall be selected by Indemnitee, and Indemnitee shall give written notice to the Company advising it of the identity of the Independent Counsel so selected. In either case, Indemnitee or the Company, as applicable, may, within thirty (3) business days after receiving written notice of selection from the other, deliver to the other a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not satisfy the criteria set forth in the definition of “Independent Counsel” in Section 1(k), and the objection shall

set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the Person or firm so selected shall act as Independent Counsel. If such written objection is properly and timely made and substantiated, (i) the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit; and (ii) the non-objecting party may, at its option, select an alternative Independent Counsel and give written notice to the other party advising such other party of the identity of the alternative Independent Counsel so selected, in which case the provisions of the two immediately preceding sentences, the introductory clause of this sentence and numbered clause (i) of this sentence shall apply to such subsequent selection and notice. If applicable, the provisions of clause (ii) of the immediately preceding sentence shall apply to successive alternative selections. If no Independent Counsel that is permitted under the foregoing provisions of this Section 9(e) to make the Standard of Conduct Determination shall have been selected within twenty (20) days after the Company gives its initial notice pursuant to the first sentence of this Section 9(e) or Indemnitee gives its initial notice pursuant to the second sentence of this Section 9(e), as the case may be, either the Company or Indemnitee may petition the Court of Chancery of the State of Delaware (“**Delaware Court**”) to resolve any objection which shall have been made by the Company or Indemnitee to the other’s selection of Independent Counsel and/or to appoint as Independent Counsel a Person to be selected by the Court or such other Person as the Court shall designate, and the Person or firm with respect to whom all objections are so resolved or the Person or firm so appointed will act as Independent Counsel. In all events, the Company shall pay all of the reasonable fees and expenses of the Independent Counsel incurred in connection with the Independent Counsel’s determination pursuant to Section 9(b).

(f) Presumptions and Defenses.

(i) Indemnitee’s Entitlement to Indemnification. In making any Standard of Conduct Determination, the Person or Persons making such determination shall presume that Indemnitee has satisfied the applicable standard of conduct and is entitled to indemnification, and the Company shall have the burden of proof to overcome that presumption and establish that Indemnitee is not so entitled. Any Standard of Conduct Determination that is adverse to Indemnitee may be challenged by the Indemnitee in the Delaware Court. No determination by the Company (including by its Board or any Independent Counsel) that Indemnitee has not satisfied any applicable standard of conduct may be used as a defense to enforcement by Indemnitee of Indemnitee’s rights of indemnification or reimbursement or advance of payment of Expenses by the Company hereunder or create a presumption that Indemnitee has not met any applicable standard of conduct.

(ii) Reliance as a Safe Harbor. For purposes of this Agreement, and without creating any presumption as to a lack of good faith if the following circumstances do not exist, Indemnitee shall be deemed to have acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company if Indemnitee’s actions or omissions to act are taken in good faith reliance upon the records of the Company, including its financial statements, or upon information, opinions, reports

or statements furnished to Indemnitee by the officers or employees of the Company or any of its subsidiaries in the course of their duties, or by committees of the Board or by any other Person (including legal counsel, accountants and financial advisors) as to matters Indemnitee reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company. In addition, the knowledge and/or actions, or failures to act, of any director, manager, officer, agent or employee of the Company (other than Indemnitee) shall not be imputed to Indemnitee for purposes of determining the right to indemnity hereunder.

(iii) Defense to Indemnification and Burden of Proof. It shall be a defense to any action brought by Indemnitee against the Company to enforce this Agreement (other than an action brought to enforce a claim for Losses incurred in defending against a Claim related to an Indemnifiable Event in advance of its final disposition) that it is not permissible under applicable law for the Company to indemnify Indemnitee for the amount claimed. In connection with any such action or any related Standard of Conduct Determination, the burden of proving such a defense or that the Indemnitee did not satisfy the applicable standard of conduct shall be on the Company.

10. Exclusions from Indemnification. Notwithstanding anything in this Agreement to the contrary, the Company shall not be obligated to:

(a) indemnify or advance funds to Indemnitee for Losses with respect to proceedings initiated by Indemnitee, including any proceedings against the Company or its managers, officers, employees or other indemnitees and not by way of defense, except:

(i) proceedings referenced in Section 4 above (unless a court of competent jurisdiction determines that each of the material assertions made by Indemnitee in such proceeding was not made in good faith or was frivolous); or

(ii) where the Company has joined in or the Board has consented to the initiation of such proceedings.

(b) indemnify Indemnitee if a final decision by a court of competent jurisdiction determines that such indemnification is prohibited by applicable law.

(c) indemnify Indemnitee for the disgorgement of profits arising from the purchase or sale by Indemnitee of securities of the Company in violation of Section 16(b) of the Exchange Act, or any similar successor statute.

11. Remedies of Indemnitee.

(a) In the event that (i) a determination is made pursuant to Section 9 that Indemnitee is not entitled to indemnification under this Agreement, (ii) an Expense Advance is not timely made pursuant to Section 4, (iii) no determination of entitlement to indemnification is made pursuant to Section 9 within 90 days after receipt by the Company of the request for indemnification, or (iv) payment of indemnification is not made pursuant Section 9(d), Indemnitee shall be entitled to an adjudication in a Delaware Court, or in any other court of competent jurisdiction, of Indemnitee's entitlement to such

indemnification. Indemnatee shall commence such proceeding seeking an adjudication within 180 days following the date on which Indemnatee first has the right to commence such proceeding pursuant to this Section 11(a). The Company shall not oppose Indemnatee's right to seek any such adjudication.

(b) In the event that Indemnatee, pursuant to this Section 11, seeks a judicial adjudication or arbitration of his or her rights under, or to recover damages for breach of, this Agreement, any other agreement for indemnification, payment of Expenses in advance or contribution hereunder or to recover under any director, manager, and officer liability insurance policies or any other insurance policies maintained by the Company, the Company will, to the fullest extent permitted by law and subject to Section 4, indemnify and hold harmless Indemnatee against any and all Expenses which are paid or incurred by Indemnatee in connection with such judicial adjudication or arbitration, regardless of whether Indemnatee ultimately is determined to be entitled to such indemnification, payment of Expenses in advance or contribution or insurance recovery. In addition, if requested by Indemnatee, subject to Section 4 the Company will (within thirty (30) days after receipt by the Company of the written request therefor), pay as an Expense Advance such Expenses, to the fullest extent permitted by law.

(c) In the event that a determination shall have been made pursuant to Section 9 that Indemnatee is not entitled to indemnification, any judicial proceeding commenced pursuant to this Section 11 shall be conducted in all respects as a de novo trial on the merits, and Indemnatee shall not be prejudiced by reason of the adverse determination under Section 9.

(d) If a determination shall have been made pursuant to Section 9 that Indemnatee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding commenced pursuant to this Section 11, absent (i) a misstatement by Indemnatee of a material fact, or an omission of a material fact necessary to make Indemnatee's misstatement not materially misleading in connection with the application for indemnification, or (ii) a prohibition of such indemnification under applicable law.

12. Settlement of Claims. The Company shall not be liable to Indemnatee under this Agreement for any amounts paid in settlement of any threatened or pending Claim related to an Indemnifiable Event effected without the Company's prior written consent, which shall not be unreasonably withheld; provided, however, that if a Change in Control has occurred, the Company shall be liable for indemnification of the Indemnatee for amounts paid in settlement if an Independent Counsel (which, for purposes of this Section 12, shall be selected by the Company with the prior consent of the Indemnatee, such consent not to be unreasonably withheld or delayed) has approved the settlement. The Company shall not settle any Claim related to an Indemnifiable Event in any manner that would impose any Losses on the Indemnatee without the Indemnatee's prior written consent.

13. Duration. All agreements and obligations of the Company contained herein shall continue during the period that Indemnatee is a manager of the Company (or is serving at the request of the Company as a director, manager, officer, employee, member, trustee or

agent of another Enterprise) and shall continue thereafter (i) so long as Indemnitee may be subject to any possible Claim relating to an Indemnifiable Event (including any rights of appeal thereto) and (ii) throughout the pendency of any proceeding (including any rights of appeal thereto) commenced by Indemnitee to enforce or interpret his or her rights under this Agreement, even if, in either case, he or she may have ceased to serve in such capacity at the time of any such Claim or proceeding.

14. Other Indemnitors. The Company hereby acknowledges that Indemnitee may have certain rights to indemnification, advancement of Expenses and/or insurance provided by certain private equity funds, hedge funds or other investment vehicles or management companies and/or certain of their affiliates and by personal policies (collectively, the “**Other Indemnitors**”). The Company hereby agrees (i) that it is the indemnitor of first resort (i.e., its obligations to Indemnitee are primary and any obligation of the Other Indemnitors to advance Expenses or to provide indemnification for the same Expenses or liabilities incurred by Indemnitee are secondary), (ii) that it shall be required to advance the full amount of Expenses incurred by Indemnitee and shall be liable for the full amount of all Expenses, judgments, penalties, fines and amounts paid in settlement to the extent legally permitted and as required by the terms of this Agreement and the Bylaws (or any other agreement between the Company and Indemnitee), without regard to any rights Indemnitee may have against the Other Indemnitors, and, (iii) that it irrevocably waives, relinquishes and releases the Other Indemnitors from any and all claims against the Other Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Company further agrees that no advancement or payment by the Other Indemnitors on behalf of Indemnitee with respect to any claim for which Indemnitee has sought indemnification from the Company shall affect the foregoing and the Other Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of Indemnitee against the Company. The Company and Indemnitee agree that the Other Indemnitors are express third party beneficiaries of the terms of this Section 14.

15. Non-Exclusivity. The rights of Indemnitee hereunder will be in addition to any other rights Indemnitee may have under the Bylaws, the General Corporation Law of the State of Delaware (as may be amended from time to time, the “**DGCL**”), any other contract, in law or in equity, and under the laws of any state, territory, or jurisdiction, or otherwise (collectively, “**Other Indemnity Provisions**”). The Company will not adopt any amendment to its Bylaws the effect of which would be to deny, diminish, encumber or limit Indemnitee’s right to indemnification under this Agreement or any Other Indemnity Provision.

16. Liability Insurance. For the duration of Indemnitee’s service as a director of the Company, and thereafter for so long as Indemnitee shall be subject to any pending Claim relating to an Indemnifiable Event, the Company shall use best efforts to continue to maintain in effect policies of D&O Insurance providing coverage that is at least substantially comparable in scope and amount to that provided by similarly situated companies. In all policies of D&O Insurance maintained by the Company, Indemnitee shall be named as an insured in such a manner as to provide Indemnitee the same rights

and benefits as are provided to the most favorably insured of the Company's directors. Upon request, the Company will provide to Indemnatee copies of all D&O Insurance applications, binders, policies, declarations, endorsements and other related materials.

17. No Duplication of Payments. The Company shall not be liable under this Agreement to make any payment to Indemnatee in respect of any Losses to the extent Indemnatee has otherwise received payment under any insurance policy, any Other Indemnity Provisions or otherwise of the amounts otherwise indemnifiable by the Company hereunder.

18. Subrogation. In the event of payment to Indemnatee under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnatee. Indemnatee shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Company effectively to bring suit to enforce such rights.

19. Indemnatee Consent. The Company will not, without the prior written consent of Indemnatee, consent to the entry of any judgment against Indemnatee or enter into any settlement or compromise which (a) includes an admission of fault of Indemnatee, any non-monetary remedy imposed on Indemnatee or a Loss for which Indemnatee is not wholly indemnified hereunder or (b) with respect to any Claim with respect to which Indemnatee may be or is made a party or a participant or may be or is otherwise entitled to seek indemnification hereunder, does not include, as an unconditional term thereof, the full release of Indemnatee from all liability in respect of such Claim, which release will be in form and substance reasonably satisfactory to Indemnatee. Neither the Company nor Indemnatee will unreasonably withhold its consent to any proposed settlement; provided, however, Indemnatee may withhold consent to any settlement that does not provide a full and unconditional release of Indemnatee from all liability in respect of such Claim.

20. Amendments. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be binding unless in the form of a writing signed by the party against whom enforcement of the waiver is sought, and no such waiver shall operate as a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. Except as specifically provided herein, no failure to exercise or any delay in exercising any right or remedy hereunder shall constitute a waiver thereof.

21. Binding Effect. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business and/or assets of the Company), assigns, spouses, heirs and personal and legal representatives. The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all or a substantial part of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnatee, expressly to assume

and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

22. Severability. Each provision of this Agreement shall be considered severable and if for any reason any provision which is not essential to the effectuation of the basic purposes of this Agreement is determined by a court of competent jurisdiction to be invalid, unenforceable or contrary to the DGCL or existing or future applicable law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those provisions of this Agreement which are valid, enforceable and legal. In that case, this Agreement shall be construed so as to limit any term or provision so as to make it valid, enforceable and legal within the requirements of any applicable law, and in the event such term or provision cannot be so limited, this Agreement shall be construed to omit such invalid, unenforceable or illegal provisions.

23. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand, against receipt, or mailed, by postage prepaid, certified or registered mail:

- (a) if to Indemnitee, to the address set forth on the signature page hereto.
- (b) if to the Company, to:

Strand Advisors, Inc.
Attention: Isaac Leventon
Address: 300 Crescent Court, Suite 700
Dallas, Texas 75201
Email: ileventon@highlandcapital.com

Notice of change of address shall be effective only when given in accordance with this Section 23. All notices complying with this Section 23 shall be deemed to have been received on the date of hand delivery or on the third business day after mailing.

24. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF DELAWARE (OTHER THAN ITS RULES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY).

25. Jurisdiction. The parties hereby agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby, whether in contract, tort or otherwise, shall be brought in the United States District Court for the District of Delaware or in the Court of Chancery of the State of Delaware (or, if such court lacks subject matter jurisdiction, in the Superior Court of the State of Delaware), so long as one of such courts shall have subject-matter jurisdiction over such suit, action or proceeding, and that any case of action arising out of this Agreement shall be deemed to have arisen from a transaction of business in the State of Delaware. Each of the parties hereby irrevocably

consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum.

26. Enforcement.

(a) Without limiting Section 15, this Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof.

(b) The Company shall not seek from a court, or agree to, a "bar order" which would have the effect of prohibiting or limiting the Indemnitee's rights to receive advancement of Expenses under this Agreement other than in accordance with this Agreement.

27. Headings and Captions. All headings and captions contained in this Agreement and the table of contents hereto are inserted for convenience only and shall not be deemed a part of this Agreement.

28. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one and the same agreement. Facsimile counterpart signatures to this Agreement shall be binding and enforceable.

29. Guaranty By Debtor. The Debtor guarantees to Indemnitee the performance of the obligations of the Company hereunder (the "**Guaranteed Obligations**"). If the Company does not satisfy any of the Guaranteed Obligations when due, Indemnitee may demand that the Debtor satisfy such obligations and the Debtor shall be required to do so by making payment to, or for the benefit of, Indemnitee. Indemnitee can make any number of demands upon the Debtor and such demands can be made for all or part of the Guaranteed Obligations. This guaranty by the Debtor is for the full amount of the Guaranteed Obligations. The Debtor's obligations under this Agreement are continuing. Even though Indemnitee receives payments from or makes arrangements with the Company or anyone else, the Debtor shall remain liable for the Guaranteed Obligations until satisfied in full. The guaranty hereunder is a guaranty of payment, and not merely of collectability, and may be enforced against the Debtor. The Debtor's liability under this Section 29 is unconditional. It is not affected by anything that might release the Debtor from or limit all or part of its obligations.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

STRAND ADVISORS, INC.

By: _____
Name:
Title:

HIGHLAND CAPITAL MANAGEMENT,
LP (solely as to Section 29 hereunder)

By: _____
Name:
Title:

INDEMNITEE:

Name: [_____]

Address: _____

Email:

Exhibit B

Amended DSI Retention Letter

January ___, 2020

Attn: Independent Directors
Highland Capital Management, LP
300 Crescent Court, Ste. 700
Dallas, TX 75201

Re: Development Specialists, Inc. (“DSI”)
Retention and Letter of Engagement

Dear Members of the Board:

Please accept this letter as our firm’s formal written agreement (the “Agreement”) to provide restructuring support services to Highland Capital Management, L.P. (the “Company”). This Agreement replaces and supersedes in all respects the letter agreement between DSI and the Company, dated October 7, 2019, as amended and revised by the letter agreement dated October 29, 2019. However, all fees and expenses incurred by DSI prior to the date hereof in accordance with such prior letter agreements will be paid by the Company, subject to allowance of such fees and expenses by the U.S. Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”). The Agreement will become effective upon execution by duly authorized representatives of the respective parties and approval of the Bankruptcy Court.

Section 1 – Scope of Work

DSI will provide the following services (the “Services”) to the Company:

1. Bradley D. Sharp will act as the Company’s Chief Restructuring Officer (“CRO”) with other DSI personnel to assist Mr. Sharp in carrying out those duties and responsibilities.
2. Subject to the terms of this Agreement, Mr. Sharp will report to the Independent Directors and, if appointed, the Chief Executive Officer of the Company (“CEO”) and will comply with the Company’s corporate governance requirements.
3. Mr. Sharp will fulfill such duties as directed by the Independent Directors and/or CEO, if any, of the Company with respect to the Company’s restructuring and bankruptcy filed on October 16, 2019 (the “Chapter 11 Case”), including implementation and prosecution of the Chapter 11 Case.
4. Provide other personnel of DSI (“Additional Personnel”) to provide restructuring support services as requested or required to the Company, which may include but are not limited to:
 - a. assisting the Company in the preparation of financial disclosures required by the Bankruptcy Code, including the Schedules of Assets and Liabilities, the Statements of Financial Affairs and Monthly Operating Reports;

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- b. advising and assisting the Company, the Company's legal counsel, and other professionals in responding to third party requests;
- c. attending meetings and assisting in communications with parties in interest and their professionals, including the Official Committee of Unsecured Creditors appointed in the Chapter 11 Case;
- d. providing litigation advisory services with respect to accounting matters, along with expert witness testimony on case related issues; and
- e. rendering such other general business consulting services or other assistance as the Company may deem necessary and which are consistent with the role of a financial advisor and not duplicative of services provided by other professionals in this case.

DSI's ability to adequately perform the Services is dependent upon the Company timely providing reliable, accurate, and complete necessary information. The Company agrees that CRO will have (i) access to and the ability to communicate with any employee of the Company or any affiliate of the Company and (ii) access to any information, including documents, relating to the Company or any Company affiliate, including, but not limited to, information concerning collections and disbursements. The Company acknowledges that DSI or CRO are not responsible for independently verifying the veracity, completeness, or accuracy of any information supplied to us by or on behalf of the Company.

DSI will submit its evaluations and analyses pursuant to this Agreement in periodic oral and written reports. Such reports are intended to and shall constitute privileged and confidential information, and shall constitute the Company's property.

Although we do not predict or warrant the outcome of any particular matter or issue, and our fees are not dependent upon such outcomes, we will perform the Services with reasonable care and in a diligent and competent manner.

Section 2 – Rates, Invoicing and Retainer

DSI will be compensated at a rate of \$100,000 per month, plus expenses (capped at \$10,000 per month), for the services of Bradley D. Sharp as CRO and such DSI personnel (including Fred Caruso) as are required to fulfill Mr. Sharp's responsibilities as CRO; provided that if any single expense exceeds \$1,000, DSI will provide reasonable documentation and will obtain the Company's prior written approval.

A number of DSI's personnel have experience in providing restructuring support services and may be utilized as Additional Personnel in this representation. Although others of our staff may also be involved, we have listed below certain of the DSI personnel (along with their corresponding billing rates) who would likely constitute the Additional Personnel. The individuals are:

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R. Brian Calvert	\$640.00/hr.
Thomas P. Jeremiassen	\$575.00/hr.
Eric J. Held	\$495.00/hr.
Nicholas R. Troszak	\$485.00/hr.
Spencer G. Ferrero	\$350.00/hr.
Tom Frey	\$325.00/hr.

The above rates are adjusted as of January 1 of each year to reflect advancing experience, capabilities, and seniority of our professionals as well as general economic factors.

We acknowledge receipt of a retainer of \$250,000 from the Company. The purpose of the retainer is to secure a portion of our fees and expenses and to retain our status as a non-creditor should such be required for DSI to continue to provide the Services. As such, should a need arise to increase this retainer due to the level of Services DSI is providing or projected to provide, we will send the Company a supplement to this Agreement requesting the necessary increases and discuss with the Company the amount and timing of providing such increase to the retainer.

This retainer will be applied to our final invoice. If the retainer exceeds the amount of our final invoice, we will refund the difference to the Company at that time. In the event that periodic invoices are not paid timely, we will apply the retainer to the amounts owing on such invoices and, if applicable, any related late charges, and we will stop work until the retainer is replenished to the full amount required. If the retainer is not replenished within ten (10) days after the application of the retainer to unpaid balances, we reserve the right to terminate this Agreement in accordance with the provisions of Section 3 of this Agreement.

DSI also will be entitled to reimbursement for its reasonable costs and expenses. Such costs and expenses may include, among others, charges for messenger services, photocopying, travel expenses, long distance telephone charges, postage and other charges customarily invoiced by consulting firms. Airfare for international flights will be charged at the business class fare; provided that if any single expense exceeds \$1,000, DSI will provide reasonable documentation and will obtain the Company's prior written approval.

This Agreement shall be presented to the Bankruptcy Court for approval and continuation, pursuant to Bankruptcy Code Section 363 and DSI's then-prospective obligations shall be contingent upon such approval.

Section 3 – Termination

Either the Company or DSI may terminate this Agreement for any reason with ten (10) business days' written notice. Notwithstanding anything to the contrary contained herein, the Company

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shall be obligated, in accordance with any orders of or procedures established by the Court, to pay and/or reimburse DSI all fees and expenses accrued under this Agreement as of the effective date of the termination.

Section 4 – Relationship of the Parties, Confidentiality

DSI will provide the Services to and for the Company, with select members of DSI assigned to specific roles for the benefit of the Company. These members will remain as DSI employees during the pendency of this case. Specifically, the parties intend that an independent contractor relationship will be created by this Agreement. Employees of DSI are not to be considered employees of the Company and are not entitled to any of the benefits that the Company provides for the Company's employees.

The Company acknowledges that all advice (written or oral) given by DSI to the Company in connection with DSI's engagement is intended solely for the benefit and use of the Company in considering the transaction to which it relates, and that no third party is entitled to rely on any such advice or communication. DSI will in no way be deemed to be providing services for any person not a party to this Agreement.

DSI agrees that all information not publicly available that is received by DSI from the Company in connection with this Agreement or that is developed pursuant to this Agreement, will be treated as confidential and will not be disclosed by DSI, except as required by Court order, or other legal process, or as may be authorized by the Company. DSI shall not be required to defend any action to obtain an order requiring disclosure of such information, but shall instead give prompt notice of any such action to the Company so that it may seek appropriate remedies, including a protective order. The Company shall reimburse DSI for all costs and fees (including reasonable attorney's fees) incurred by DSI relating to responding to (whether by objecting to or complying with) any subpoenas or requests for production of information or documents.

Section 5 – Indemnity

The Company shall name Bradley D. Sharp as its Chief Restructuring Officer and shall indemnify him on the same terms as provided to the Company's other officers and directors under the Company partnership agreement or other governing document and applicable state law. Mr. Sharp shall be included as an insured under any insurance policies or coverage available to officers and directors of the Company.

The Company shall additionally indemnify those persons, and only those persons, serving as executive officers on the same terms as provided to the Company's other officers and directors under the Company's partnership agreement or other governing document and applicable state law, along with insurance coverage under the Company's D&O policies. Any such indemnity shall survive the expiration or termination by either party of this Agreement. Except as provided

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in this Section and in Section 4, there shall be no indemnification of DSI, its affiliates or the Additional Personnel.

Each and every one of the personnel employed by DSI who works on this particular project, as well as DSI officers, directors, employees and agents (the “DSI Parties”) shall not be liable to the Company, or any party asserting claims on behalf of the Company, except for direct damages found in a final determination (not subject to further appeal) by a court of competent jurisdiction to be the direct result of the bad faith, self-dealing or intentional misconduct or gross negligence of DSI.

Section 6 – Conflicts

DSI has made diligent inquiries to determine whether it or any of its professionals have any connections with the Company, its creditors, or other parties in interest in the Chapter 11 Case. Based on that review, the review of DSI’s conflict files and responses to inquiries from DSI’s professional staff, neither DSI nor its professionals have any known conflicts with the parties in this case. DSI will separately provide its connections to parties in this case and/or their professionals.

Section 7 – No Audit

The Company acknowledges that it is hiring DSI to assist and advise the Company in business planning and operations. DSI’s engagement shall not constitute an audit, review or compilation, or any other type of financial statement reporting engagement that is subject to the rules of AICPA or other such state and national professional bodies.

Section 8 – Non-Solicitation

The Company agrees not to solicit, recruit or hire any employees or agents of DSI for a period of one year subsequent to the completion and/or termination of this Agreement; provided that the Company shall not be prohibited from (x) making general advertisements for employment not specifically directed at employees of DSI or (y) employees of DSI responding to unsolicited requests for employment.

Section 9 – Survival

The provisions of this Agreement relating to indemnification, the non-solicitation or hiring of DSI employees, and all other provisions necessary to the enforcement of the intent of this Agreement will survive the termination or expiration of this Agreement.

Section 10 – Governing Law

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This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to conflicts of law principles.

Section 11 – Entire Agreement, Amendment

This Agreement contains the entire understanding of the parties relating to the subject matter of this Agreement and supersedes and is intended to nullify any other agreements, understandings or representations relating to the subject of this Agreement. This Agreement may not be amended or modified except in a writing signed by the parties.

If you are in agreement with the foregoing terms and conditions please indicate your acceptance by signing an original copy of this Agreement on the signature lines below, then returning one fully-executed Agreement to DSI's office. The Agreement will become effective upon execution by duly authorized representatives of the respective parties.

Very truly yours,

Bradley Sharp
Development Specialists, Inc.

AGREED AND ACKNOWLEDGED:

Highland Capital Management, L.P.
By: Strand Advisors, Inc., its general partner

By: _____, Independent Director
Date: _____

Exhibit C

Document Production Protocol

A. Definitions

- a. Electronically stored information” or “ESI” shall include all electronic files, documents, data, and information covered under the Federal Rules of Civil Procedure.

B. Preservation of ESI - Generally

- a. Debtor acknowledges that they should take reasonable and proportional steps to preserve discoverable information in the party’s possession, custody or control. This includes notifying employees possessing relevant information of their obligation to preserve such data.

C. Preservation of ESI – Specific Forms

- a. For email, Debtor uses Outlook Email on an Exchange server. Veritas Enterprise Vault is used to archive emails. Journaling is and has been in active use since 2007, and all inbound, outbound, and in-system email communications have been preserved and are not at risk of deletion due to normal document retention practices. Out of an abundance of caution, a copy of the latest email back-up, which was performed two months ago, shall be copied and stored at a secured location.
- b. The file server used by Debtor was backed up approximately one week ago. A copy of this backup shall be created and stored on a portable hard drive at a secured location.
- c. The Sharepoint server used by Debtor was backed up approximately one week ago. A copy of this backup shall be created in a format that maintains all potentially relevant information and stored at a secured location.
- d. The Oracle E-Business Suite (EBS) server used by Debtor was backed up one week ago. A copy of this backup shall be created in a format and stored at a secured location.
- e. The Advent Geneva accounting system used by Debtor was backed up approximately one week ago. Upon reasonable notice, the Committee may submit search criteria to Debtor to run searches in Advent Geneva. Subject to Debtor’s rights to assert objections as provided by Part G herein, Debtor will provide the data resulting from such agreed searches pursuant to Part F herein.
- f. The Siepe Database (data warehouse) used by Debtor was backed up approximately one week ago. A copy of this backup shall be created in a format and stored at a secured location.
- g. For the Box account used by Debtor, to the extent routine data retention practices may result in file deletion, they shall be suspended pending further discussion with the Committee concerning the relevance of such data. Users of the Box account who have the ability to delete files shall be notified of the obligation to suspend deletion of any data stored in Box.
- h. Bloomberg data is archived for five years. Debtor shall work with Bloomberg client services to preserve a copy of all such archived material, which shall be stored at a secured location, or otherwise extend the backup window in which Bloomberg preserves the data by reasonable time to be agreed by the parties.

- i. Files may be saved locally on laptops/work computers used by employees of Debtor. This practice is discouraged, but may result in the creation of relevant ESI on local systems in a manner that will not be replicated elsewhere. Debtor shall therefore cease the deletion of data (*i.e.*, wiping) of any employee-assigned computer hard drives, such as for departing employees. Debtor shall furthermore instruct current employees not to delete files stored locally on their assigned computers.

D. Not Reasonably Accessible Documents

- a. Absent an order from the Court upon a showing of good cause, a Party from whom ESI has been requested shall not be required to search for responsive ESI from sources that are not reasonably accessible without undue burden or cost. The following types of data stores are presumed to be inaccessible and are not subject to discovery, and need not be collected or preserved, absent a particularized need for the data as established by the facts and legal issues of the case:
 - i. Deleted, slack, fragmented, or other data only accessible by forensics;
 - ii. Random access memory (RAM), temporary files, or other ephemeral data that are difficult to preserve without disabling the operating system; and
 - iii. On-line access data such as temporary internet files, history, cache, cookies, and the like.
- b. To conduct collections in a focused and efficient manner, the Parties also agree to exclude the following file types from collection: Standard system file extensions including, but not limited to, BIN, CAB, CHK, CLASS, COD, COM, DLL DRV, EXE, INF, INI, JAVA, LIB, LOG, SYS and TMP and other file extensions and directories that likely do not contain user generated content such as files identified by hash value when compared to the National Software Reference Library reference data set (RDS Hash), a sub-project of the National Institute of Standards and Technology ("NIST"), of known traceable system and application files. This process is commonly referred to as "De-NISTing."

E. Collection and Search Methodology

- a. Searches for emails in Debtor's custody shall be conducted by DSI on Debtor's Veritas Enterprise Vault storage using an unrestricted account at the earliest opportunity, but in no event later than seven (7) days after the Committee requests ESI from the Debtor. DSI shall use an add-on component called Discovery Assistant, which enables searches based on email properties, such as senders, recipients, and dates. Discovery Assistant also permits text searching of email contents and the contents of electronic file attachments, although not pictures of text (*e.g.*, scanned PDFs). Debtor did not employ employee message or file encryption that would prevent reasonable operation of the Discovery Assistant search capabilities.
- b. The results of email searches shall be produced to the Committee pursuant to Part F below, subject to completion of any review for privilege or other purposes contemplated by this Agreement.

- c. A snapshot copy of Debtor databases (Oracle, Siepe) shall be created in a format to be specified later by agreement with the Committee per Part (C)(d), (f), above. Prior to any production of responsive data from such a structured database Debtor will first identify the database type and version number, provide the vendor-originated database dictionary, if any, (identifying all tables in the database, their fields, the meaning of those fields, and any interrelation among fields) and any user manuals, or any other documentation describing the structure and/or content of the database, and a list of all reports that can be generated from the database. The list of reports shall be provided in native Excel (.xis or .xlsx) format.
- d. The Geneva system is highly proprietary and shall not be collected, but the Committee will be given reasonable access to that system per Part C(e), above.
- e. Debtor and Committee will meet and confer to discuss the scope of any necessary searches on the Box account.
- f. Debtor file server contents, where requested by the Committee, shall be produced pursuant to Part F below.
- g. Debtor shall propose a format for producing Sharepoint data. The Committee agrees that it is not necessary to reproduce the interface used by Debtor in the ordinary course of business for Sharepoint.

F. Format of Documents Produced

- a. Non-database ESI shall be produced as black and white Group 4 TIFF files, with a resolution of 300 DPI. Page size shall be 8.5 x 11 inches unless, in the reasonable judgment of the Producing Party, a particular item requires a different page size, and original document orientation shall be maintained (i.e., portrait to portrait and landscape to landscape). A Requesting Party may, in good faith and reasonable judgment, request a color copy of a production document if it is necessary to convey the relevant and responsive information. Such color copies may be produced as single page JPG (JPEG) image files. The Requesting Party will bear the costs for color images.
- b. The files shall be accompanied by a metadata load file, in a single standard format to be requested by the Receiving Party prior to any production (e.g., Opticon, Summation DII, or the like) showing the Bates number of each page, the appropriate unitization of the documents, and the entire family range. The Parties agree to meet and confer regarding the requested standard format prior to production.
- c. The files shall be accompanied by a .DAT text file including the delimited fields identified in the Metadata List (below). No Party will have any obligation to manually generate information to provide the fields identified in the Metadata List.
- d. The Producing Party reserves the right to make hard copy documents available for inspection and copying pursuant to Federal Rule of Civil Procedure 34.
- e. In the event that a Party identifies hard copy documents for production, hard copy paper documents shall be scanned and will include, to the extent feasible, the following fields in the .DAT text file: PRODBEG, PRODEND, PAGECOUNT, FULLTEXT, and CUSTODIAN. The Parties agree to share equally in the cost of scanning hard copy documents.

- f. For any documents that were scanned from hard copy paper documents, the Parties will produce images of hard copy documents unitized to the extent the original documents appeared to be units in physical form, with attachments following parents, and with information that identifies the holder (or container) structure, to the extent such structure exists and it is reasonable to do so. The Producing Party is not required to OCR (Optical Character Recognition) hard copy documents. If the Receiving Party requests that hard copy documents be OCR'ed, the Receiving Party shall bear the cost of such request, unless the Parties agree to split the cost so that each has an OCR'ed copy of the documents.
- g. For ESI that the Producing Party produces in TIFF or JPEG format, the Producing Party shall electronically "burn" a legible, unique Bates number onto each page. The Bates number shall, to the extent reasonably possible: (1) identify the Producing Party; (2) maintain a constant length of nine numeric digits (including 0-padding) across the entire production; (3) contain only alphanumeric characters, no special characters or embedded spaces; and (4) be sequential within a given document. If the Bates number conceals, interferes with, or otherwise obscures any information from the source document, the Producing Party, at the request of the Receiving Party, shall produce a copy that is not obscured.
- h. For ESI that the Producing Party produces in TIFF format, if the Producing Party is producing the ESI subject to a claim that it is protected from disclosure under any confidentiality order entered in this matter, the Producing Party shall electronically "burn" the appropriate confidentiality designation onto each page of the document. If the designation conceals, interferes with, or otherwise obscures any information from the source document, the Producing Party, at the request of the Receiving Party, shall produce a copy that is not obscured.
- i. The Parties agree to produce e-mail families intact absent a privilege or work product claim, so long as each document contains responsive information; for all documents that contain a responsive, non-privileged attachment, the following fields will be produced (if available) as part of the metadata load file to indicate the parent child or parent/sibling relationship:
 - i. Production Bates begin
 - ii. Production Bates end
 - iii. Production Bates begin attachment
 - iv. Production Bates end attachment

Notwithstanding the aforementioned, all parties acknowledge that Debtor's Veritas Enterprise Vault system does not have the ability to search for the family members of responsive documents, and that Debtor does not have an obligation to manually search for non-responsive family members of otherwise responsive documents.

- j. Unless otherwise agreed, all dynamic date and time fields, where such fields are processed to contain a value, and all metadata pertaining to dates and times, will be standardized to Universal Coordinated Time (UTC) or Universal Coordinated Time + 1 (UTC+1) [TBD]. The Parties understand and acknowledge that such standardization affects only dynamic fields and metadata values and does not affect, among other things, dates and times that are hard-coded text within a file. Dates and times that are hard-coded text within a file (for example, in an email

thread, dates and times of earlier messages that were converted to body text when subsequently replied to or forwarded; and in any file type, dates and times that are typed as such by users) will be produced as part of the document text in accordance with the provisions herein.

- k. Excel spreadsheets shall be produced in native application format, unless redactions are required. The Producing Party will make reasonable efforts to provide a TIFF image of a slip sheet with the Bates number of documents produced natively in its production. The corresponding native file shall be named by using the same Bates number identified on the placeholder TIFF image. Any Excel spreadsheet that requires redaction will be produced in TIFF format only. Certain types of databases are dynamic in nature and may contain information that is irrelevant. These files are sometimes large and would, if rendered to TIFF images completely, produce thousands of pages that would have little utility to a reviewer without the associated database.
- l. To the extent information from a structured data repository, such as a database, is requested, responsive information will be produced via a report or export of such data to an appropriate program that is agreeable to the requesting Party. The Parties agree to meet and confer before such data is exported.

G. Production Format Shall Not Alter Authenticity, Admissibility, or Privilege Status

- a. No Party shall object that ESI produced pursuant to this Protocol is not authentic by virtue of the ESI having been converted to TIFF. The Parties otherwise reserve all rights regarding their ability to object to the authenticity of documents.
- b. Nothing in this Protocol shall be construed to affect in any way the rights of any Party to make any objection as to the production, discoverability, admissibility, or confidentiality of documents and ESI.
- c. Nothing in this Protocol shall constitute a waiver by any Party of any claim or privilege or other protection from discovery.
- d. Nothing in this Protocol shall be interpreted to in any way limit a Producing Parties right and ability to review documents for responsiveness prior to production.
- e. Nothing in the Protocol shall require disclosure of irrelevant information or relevant information protected by the attorney-client privilege, work-product doctrine, or any other applicable privilege or immunity.

Metadata List

File Name	Field Description	Sample Values
BegBates	Bates number for the first page of the document	ABC-0000001
EndBates	Bates number for the last page of the document	ABC-0000002
BegAttach	Bates number for the first page of parent document	ABC-0000001
EndAttach	Bates number for the last page of last attachment	ABC-0000005
Pages	Number of printed pages of the	2

	document	
Global Custodian	Custodian name produced in format: Lastname, Firstname.	Smith, Jane; Taylor, Michael
Confidentiality	Indicates if the document has been designated as “Confidential” or “Highly Confidential” pursuant to the applicable Protective Order	Confidential; Highly Confidential
Redacted	Descriptor for documents that have been redacted: “Yes” for redacted documents; “No” for non-redacted documents	Yes
Email Subject	Subject line of Email or	Text of the subject line
Document Subject	Subject value of documents	Text of the subject line
Date Sent	Date email sent	mm/dd/yyyy
Time Sent	Time email sent	hh:mm:ss AM
Date Last Modified	Date document was last modified	mm/dd/yyyy
Time Last Modified	Time document was last modified	hh:mm:ss AM
Date Created	Date document was first created	mm/dd/yyyy
To	All SMTP address of email recipients, separated by a semi-colon	Larry.murphy@email.com
From	All SMTP address of email author	Bart.cole@email.com
CC	All SMTP address of email “CC” recipients, separated by a semi-colon	Jim.James@gmail.com; bjones@yahoo.com
BCC	All SMTP address of email “BCC” recipients, separated by a semi-colon	mjones@gmail.com
Attach	The file name(s) of the documents attached to emails or embedded in files. Multiple files should be delimited by a semicolon	Filename.doc; filename2.doc
Title	The Title property of a file.	Title
Author	The Author property of a file	John Doe
MessageID	The email message ID	
FILENAME	The original name of the file excluding the path	C:\My Documents\letter.doc
DocType	Email, letter, memo, invoice, etc., if available	
Extension	The file extension	.doc

FileType	The actual file type of the document (Word, Excel, etc.) regardless of the file extension	
HashValue	MD5 Hash value of original file	
FilePath	The directory structure of the original file.	C:\My Documents\ letter.doc
PathToNative	The relative path to a produced native document	C:\VOL001\BATES000000001.xls
PathToText	The relative path to the accompanying text file	C:\VOL001\BATES000000001.txt
Volume	The production number or reference from the production	
Other Custodian	To the extent global deduplication is used, the field indicates the other custodians who also were in possession of the document at the time of collection	

Exhibit D

Reporting Requirements

I. Definitions

- A. “Court” means the United States Bankruptcy Court for the Northern District of Texas.
- B. “NAV” means (A) with respect to an entity that is not a CLO, the value of such entity’s assets less the value of its liabilities calculated as of the month end prior to any Transaction; and (B) with respect to a CLO, the CLO’s gross assets less expenses calculated as of the quarter end prior to any Transaction.
- C. “Non-Discretionary Account” means an account that is managed by the Debtor pursuant to the terms of an agreement providing, among other things, that the ultimate investment discretion does not rest with the Debtor but with the entity whose assets are being managed through the account.
- D. “Related Entity” means collectively (A)(i) any non-publicly traded third party in which Mr. Dondero, Mr. Okada, or Mr. Grant Scott, or Mr. John Honis (with respect to Messrs. Okada, Scott and Honis, only to the extent known by the Debtor) has any direct or indirect economic or ownership interest, including as a beneficiary of a trust; (ii) any entity controlled directly or indirectly by Mr. Dondero, Mr. Okada, Mr. Grant Scott, or Mr. John Honis (with respect to Messrs. Okada, Scott and Honis, only to the extent known by the Debtor); (iii) MGM Holdings, Inc.; (iv) any publicly traded company with respect to which the Debtor or any Related Entity has filed a Form 13D or Form 13G; (v) any relative (as defined in Section 101 of the Bankruptcy Code) of Mr. Dondero or Mr. Okada each solely to the extent reasonably knowable by the Debtor; (vi) the Hunter Mountain Investment Trust and Dugaboy Investment Trust; (vii) any entity or person that is an insider of the Debtor under Section 101(31) the Bankruptcy Code, including any “non-statutory” insider; and (viii) to the extent not included in (A)(i)-(vii), any entity included in the listing of related entities in **Schedule B** hereto (the “Related Entities Listing”); and (B) the following Transactions, (x) any intercompany Transactions with certain affiliates referred to in paragraphs 16.a through 16.e of the Debtor’s cash management motion [Del. Docket No. 7]; and (y) any Transactions with Charitable DAF Fund, L.P. (provided, however, that additional parties may be added to this subclause (y) with the mutual consent of the Debtor and the Committee, such consent not to be unreasonably withheld).
- E. “Stage 1” means the time period from the date of execution of a term sheet incorporating the protocols contained below the (“Term Sheet”) by all applicable parties until approval of the Term Sheet by the Court.
- F. “Stage 2” means the date from the appointment of a Board of Independent Directors at Strand Advisors, Inc. until 45 days after such appointment, such appointment being effective upon Court approval.
- G. “Stage 3” means any date after Stage 2 while there is a Board of Independent Directors at Strand Advisors, Inc.
- H. “Transaction” means (i) any purchase, sale, or exchange of assets, (ii) any lending or borrowing of money, including the direct payment of any obligations of another entity, (iii) the satisfaction of any capital call or other contractual

requirement to pay money, including the satisfaction of any redemption requests, (iv) funding of affiliates and (v) the creation of any lien or encumbrance.

- I. "Ordinary Course Transaction" means any transaction with any third party which is not a Related Entity and that would otherwise constitute an "ordinary course transaction" under section 363(c) of the Bankruptcy Code.
- J. "Notice" means notification or communication in a written format and shall include supporting documents necessary to evaluate the propriety of the proposed transaction.

II. Transactions involving the (i) assets held directly on the Debtor's balance sheet or the balance sheet of the Debtor's wholly-owned subsidiaries, including Jefferies Prime Account, and (ii) the Highland Select Equity Fund, L.P., Highland Multi Strategy Credit Fund, L.P., and Highland Restoration Capital Partners

A. **Covered Entities:** N/A (See entities above).

B. Operating Requirements

- 1. Ordinary Course Transactions do not require Court approval (All Stages).
 - a) Stage 1 and Stage 2: ordinary course determined by the CRO.
 - b) Stage 3: ordinary course determined by the Debtor.
- 2. Related Entity Transactions
 - a) Stage 1 and Stage 2: Transactions with Related Entities require prior approval of CRO and five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - b) Stage 3:
 - (1) Transactions with Related Entities greater than \$1,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - (2) Transactions with Related Entities greater than \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require Court approval, which the Committee agrees may be sought on an expedited basis.
- 3. Third Party Transactions (All Stages)
 - a) Except as set forth in (b) and (c) below, Transactions in excess of \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require three business days advance notice to Committee and if the Committee objects, the burden is on the

Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

- b) The Debtor may satisfy any redemption requests from entities that are not Related Entities without advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable. The Debtor will provide the Committee with five business days advance notice of any redemption requests made by and payable to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- c) The Debtor may satisfy margin calls and short covers without providing the Committee advance notice if the exigencies do not allow advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable.

C. **Weekly Reporting:** The Debtor will provide the Committee with weekly reports showing all Transactions under this category.

III. **Transactions involving entities the Debtor manages and in which the Debtor holds a direct or indirect interest (other than the entities discussed in Section I above)**

A. **Covered Entities:** See Schedule A hereto. Schedule A includes or will include all entities the Debtor manages and in which the Debtor holds a direct or indirect interest (other than the entities discussed in Section I above).¹

B. **Operating Requirements**

- 1. Ordinary Course Transactions do not require Court approval (All Stages).
 - a) Stage 1 and Stage 2: ordinary course determined by the CRO.
 - b) Stage 3: ordinary course determined by the Debtor.
- 2. Related Entity Transactions
 - a) Stage 1 and Stage 2: Transactions with Related Entities require prior approval of CRO and five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - b) Stage 3:
 - (1) Transactions with Related Entities greater than \$1,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require five business days advance notice to the Committee and if the Committee objects, the burden is on

¹ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

- (2) Transactions with Related Entities greater than \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require Court approval, which the Committee agrees may be sought on an expedited basis.

3. Third Party Transactions (All Stages)

- a) Except as set forth in (b) and (c) below, Transactions in excess of \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require three business days advance notice to Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- b) The Debtor may satisfy any redemption requests from entities that are not Related Entities without advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable. The Debtor will provide the Committee with five business days advance notice of any redemption requests made by and payable to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- c) The Debtor may satisfy margin calls and short covers without providing the Committee advance notice if the exigencies do not allow advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable.

- C. **Weekly Reporting:** The Debtor will provide the Committee with weekly reports showing all Transactions under this category.

IV. Transactions involving entities that the Debtor manages but in which the Debtor does not hold a direct or indirect interest

- A. **Covered Entities:** See Schedule A hereto. Schedule A includes or will include all entities that the Debtor manages but in which the Debtor does not hold a direct or indirect interest.²
- B. **Operating Requirements**
 1. Ordinary Course Transactions do not require Court approval (All Stages).
 - a) Stage 1 and Stage 2: ordinary course determined by the CRO.
 - b) Stage 3: ordinary course determined by the Debtor.

² The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

2. Related Entity Transactions

- a) Stage 1 and Stage 2: Transactions with Related Entities require prior approval of CRO and five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- b) Stage 3:
 - (1) Transactions with Related Entities greater than \$1,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - (2) Transactions with Related Entities greater than \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require Court approval, which the Committee agrees may be sought on an expedited basis.

3. Third Party Transactions (All Stages):

- a) Except as set forth in (b) and (c) below, any Transaction that decreases the NAV of an entity managed by the Debtor in excess of the greater of (i) 10% of NAV or (ii) \$3,000,000 requires five business days advance notice to Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- b) The Debtor may satisfy any redemption requests from entities that are not Related Entities without advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable. The Debtor will provide the Committee with five business days advance notice of any redemption requests made by and payable to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- c) The Debtor may take such steps as may be reasonably necessary to winddown any managed entity and make distributions as may be required in connection with such winddown to any required parties. The Debtor will provide the Committee with five business days advance notice of any distributions to be made to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

C. **Weekly Reporting:** The Debtor will provide the Committee with weekly reports showing all Transactions under this category.

V. Transactions involving entities that the Debtor does not manage but in which the Debtor holds a direct or indirect interest

- A. Covered Entities: See Schedule A hereto. Schedule A includes or will include all entities that the Debtor does not manage but in which the Debtor holds a direct or indirect interest.³
- B. Ordinary Course Transactions (All Stages): N/A
- C. Operating Requirements: N/A
- D. Weekly Reporting: Debtor will provide weekly reports of all cross-held asset Transactions, i.e. Transactions in which the Debtor or a Related Entity also holds a direct or indirect interest.

VI. Transactions involving entities that the Debtor does not manage and in which the Debtor does not hold a direct or indirect interest

- A. Covered Entities: See Schedule A hereto. Schedule A includes or will include all entities that the Debtor does not manage and in which the Debtor does not hold a direct or indirect interest.⁴
- B. Ordinary Course Transactions (All Stages): N/A
- C. Operating Requirements: N/A
- D. Weekly Reporting: Debtor will provide weekly reports of all cross-held asset Transactions, i.e. Transactions in which the Debtor or a Related Entity also holds a direct or indirect interest.

VII. Transactions involving Non-Discretionary Accounts

- A. Covered Entities: See Schedule A hereto. Schedule A includes or will include all non-discretionary accounts.⁵
- B. Ordinary Course Transactions (All Stages): N/A
- C. Operating Requirements: N/A
- D. Weekly Reporting: Debtor will provide weekly reports of all cross-held asset Transactions, i.e. Transactions in which the Debtor or a Related Entity also holds a direct or indirect interest.

³ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

⁴ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

⁵ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

VIII. Additional Reporting Requirements – All Stages (to the extent applicable)

- A. DSI will provide detailed lists and descriptions of internal financial and operational controls being applied on a daily basis for a full understanding by the Committee and its professional advisors three (3) business days in advance of the hearing on the approval of the Term Sheet and details of proposed amendments to said financial and operational controls no later than seven (7) days prior to their implementation.
- B. The Debtor will continue to provide weekly budget to actuals reports referencing their 13-week cash flow budget, such reports to be inclusive of all Transactions with Related Entities.

IX. Shared Services

- A. The Debtor shall not modify any shared services agreement without approval of the CRO and Independent Directors and seven business days' advance notice to counsel for the Committee.
- B. The Debtor may otherwise continue satisfying its obligations under the shared services agreements.

X. Representations and Warranties

- A. The Debtor represents that the Related Entities Listing included as **Schedule B** attached hereto lists all known persons and entities other than natural persons included in the definitions of Related Entities covered by Section I.D parts A(i)-(vii) above at the time of the execution of the Term Sheet.
- B. The Debtor represents that the list included as **Schedule C** attached hereto lists all known natural persons included in the definitions of Related Entities covered by Section I.D parts A(i)-(vii) above at the time of the execution of the Term Sheet.
- C. The Debtor represents that, if at any time the Debtor becomes aware of any person or entity, including natural persons, meeting the definition of Related Entities covered by Section I.D parts A(1)-(vii) above that is not included in the Related Entities Listing or Schedule C, the Debtor shall update the Related Entities Listing or Schedule C, as appropriate, to include such entity or person and shall give notice to the Committee thereof.

Schedule A⁶

Entities the Debtor manages and in which the Debtor holds a direct or indirect interest

1. Highland CLO Funding, Ltd. (0.63% Ownership Interest)
2. Dynamic Income Fund (0.26% Ownership Interest)

Entities that the Debtor manages but in which the Debtor does not hold a direct or indirect interest

1. Highland Prometheus Master Fund L.P.
2. NexAnnuity Life Insurance Company
3. PensionDanmark
4. Highland Argentina Regional Opportunity Fund
5. Longhorn A
6. Longhorn B
7. Collateralized Loan Obligations
 - a) Rockwall II CDO Ltd.
 - b) Grayson CLO Ltd.
 - c) Eastland CLO Ltd.
 - d) Westchester CLO, Ltd.
 - e) Brentwood CLO Ltd.
 - f) Greenbriar CLO Ltd.
 - g) Highland Park CDO Ltd.
 - h) Liberty CLO Ltd.
 - i) Gleneagles CLO Ltd.
 - j) Stratford CLO Ltd.
 - k) Jasper CLO Ltd.
 - l) Rockwall DCO Ltd.
 - m) Red River CLO Ltd.
 - n) Hi V CLO Ltd.
 - o) Valhalla CLO Ltd.
 - p) Aberdeen CLO Ltd.
 - q) South Fork CLO Ltd.
 - r) Legacy CLO Ltd.
 - s) Pam Capital
 - t) Pamco Cayman

Entities that the Debtor does not manage but in which the Debtor holds a direct or indirect interest

1. Highland Opportunistic Credit Fund
2. Highland Healthcare Opportunities Fund f/k/a Highland Long/Short Healthcare Fund
3. NexPoint Real Estate Strategies Fund
4. Highland Merger Arbitrage Fund
5. NexPoint Strategic Opportunities Fund
6. Highland Small Cap Equity Fund
7. Highland Global Allocation Fund

⁶ NTD: Schedule A is work in process and may be supplemented or amended.

8. Highland Socially Responsible Equity Fund
9. Highland Income Fund
10. Stonebridge-Highland Healthcare Private Equity Fund (“Korean Fund”)
11. SE Multifamily, LLC

Entities that the Debtor does not manage and in which the Debtor does not hold a direct or indirect interest

1. The Dugaboy Investment Trust
2. NexPoint Capital LLC
3. NexPoint Capital, Inc.
4. Highland IBoxx Senior Loan ETF
5. Highland Long/Short Equity Fund
6. Highland Energy MLP Fund
7. Highland Fixed Income Fund
8. Highland Total Return Fund
9. NexPoint Advisors, L.P.
10. Highland Capital Management Services, Inc.
11. Highland Capital Management Fund Advisors L.P.
12. ACIS CLO Management LLC
13. Governance RE Ltd
14. PCMG Trading Partners XXIII LP
15. NexPoint Real Estate Partners, LLC f/k/a HCRE Partners LLC
16. NexPoint Real Estate Advisors II LP
17. NexPoint Healthcare Opportunities Fund
18. NexPoint Securities
19. Highland Diversified Credit Fund
20. BB Votorantim Highland Infrastructure LLC
21. ACIS CLO 2017 Ltd.

Transactions involving Non-Discretionary Accounts

1. NexBank SSB Account
2. Charitable DAF Fund LP

Schedule B

Related Entities Listing (other than natural persons)

Schedule C

1. James Dondero
2. Mark Okada
3. Grant Scott
4. John Honis
5. Nancy Dondero
6. Pamela Okada
7. Thomas Surgent
8. Scott Ellington
9. Frank Waterhouse
10. Lee (Trey) Parker

EXHIBIT 7

**Declaration of John Morris in Support of the Debtor's Objection to the Official Committee of
Unsecured Creditors' Emergency Motion to Compel Production by the Debtor**

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)

Ira D. Kharasch (CA Bar No. 109084) (*admitted pro hac vice*)

John A. Morris (NY Bar No. 2405397) (*admitted pro hac vice*)

Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)

10100 Santa Monica Blvd., 13th Floor

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10501 N. Central Expy, Ste. 106

Dallas, TX 75231

Tel: (972) 755-7100

Fax: (972) 755-7110

Counsel for the Debtor and Debtor-in-Possession

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,¹

Debtor.

)
) Chapter 11
)
) Case No. 19-34054-sgj11
)
)
)
)

**DECLARATION OF JOHN A. MORRIS
IN SUPPORT OF THE DEBTOR'S OBJECTION TO THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS' EMERGENCY MOTION TO
COMPEL PRODUCTION BY THE DEBTOR**

¹ The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



I, John A. Morris, pursuant to 28 U.S.C. § 1746(a), under penalty of perjury, declare as follows:

1. I am a partner in the law firm Pachulski, Stang, Ziehl & Jones LLP, counsel to the above-referenced Debtor, and I submit this Declaration in support of the *Debtor's Objection to the Official Committee of Unsecured Creditors' Emergency Motion to Compel Production by the Debtor*. I submit this Declaration based on my personal knowledge and review of the documents listed below.

2. Attached as **Exhibit A** is a true and correct copy of an e-mail from me to Paige Montgomery (with copies to Gregory Demo, Penny Reid, and Patrick Foley), dated June 19, 2020, with clean and black-line copies of the Document Review Memorandum (as that term is defined in the Motion).

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Dated: July 15, 2020.

/s/ John A. Morris
John A. Morris

EXHIBIT “A”

From: [John A. Morris](#)
To: [Zachery Annable](#)
Cc: [Gregory V. Demo](#); [Melissa Hayward](#)
Subject: FW: Highland: Document Review Memorandum
Date: Wednesday, July 15, 2020 3:29:33 PM
Attachments: [DOCS_NY-#40606-v5-Highland_BK_Document_Review.DOCX](#)
[Highland BK Document Review - Highland BK Document Review.pdf](#)

Thanks,

John

John A. Morris

Pachulski Stang Ziehl & Jones LLP

Direct Dial: 212.561.7760

Tel: 212.561.7700 | Fax: 212.561.7777

jmorris@pszjlaw.com

[vCard](#) | [Bio](#) | [LinkedIn](#)



Los Angeles | San Francisco | Wilmington, DE | New York | Costa Mesa

From: John A. Morris
Sent: Friday, June 19, 2020 1:27 PM
To: Montgomery, Paige (pmontgomery@sidley.com)
Cc: Gregory V. Demo; Reid, Penny (preid@sidley.com); patrick.foley@sidley.com
Subject: Highland: Document Review Memorandum

Paige:

We accepted all of the UCC's proposed changes into a new document and then made some further changes that are reflected in the attached black-line.

The only substantive difference concerns the protection afforded under the work product doctrine because we do not believe that "work product" requires the involvement of an attorney. *See* Fed. R. Evid. 501. Under Texas law, the protection applies to "material prepared or mental impressions developed in anticipation of litigation or for trial by or for a party or a party's representatives, including the party's attorneys, ... employees, or agents." Tex. R. Civ. P. 192.5 (emphasis added).

To the extent the UCC disagrees, we can address the issue when, and if, the Debtor withholds a document that doesn't involve an attorney based on the work product doctrine.

I'll be in touch shortly with respect to other discovery matters the UCC raised this week.

Regards,

John

John A. Morris

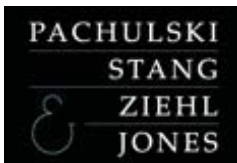
Pachulski Stang Ziehl & Jones LLP

Direct Dial: 212.561.7760

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[vCard](#) | [Bio](#) | [LinkedIn](#)



Los Angeles | San Francisco | Wilmington, DE | New York | Costa Mesa

CONFIDENTIALITY

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Notwithstanding the Uniform Electronic Transactions Act or the applicability of any other law of similar substance and effect, absent an express statement to the contrary hereinabove, this e-mail message, its contents, and any attachments hereto are not intended to represent an offer or acceptance to enter into a contract and are not otherwise intended to bind the sender, Pachulski Stang Ziehl & Jones LLP, any of its clients, or any other person or entity.

MEMORANDUM

Date: June 18, 2020

To: Robert Half Legal Contract Attorneys

From: Highland Capital Management, L.P. Legal Department; Pachulski Stang Ziehl & Jones, LLP

Re: Document Review Memorandum: *In re Highland Capital Management, L.P.*

This memorandum sets forth the protocol for reviewing Highland Capital Management, L.P.’s (“Highland”) documents in preparation for a document production responsive to the Official Committee of Unsecured Creditors’ (“Committee”) Requests for Production, copies of which are attached (the “Requests”). The purpose of the document review is to determine the privilege and responsiveness status of Highland’s documents that correspond to certain search terms. Accordingly, for each document reviewed, at least one attorney will assess whether the document is: (1) responsive or not responsive and (2) privileged or not privileged. This memorandum is intended to assist you with the review.

I. MATERIALS PROVIDED

Exhibit A: The Official Committee of Unsecured Creditors Expedited Requests for Production of Documents to Highland

Exhibit B: The Official Committee of Unsecured Creditors’ Second Requests for Production of Documents

Exhibit C: Dkt. #354-1, Exhibit A – Preliminary Term Sheet of Highland Capital Management

Exhibit D: Dkt. # 466-1, Debtor’s Amended Operating Protocols

Exhibit E: List of Highland counsel for privilege analysis

Exhibit F: Dkt. #382, Agreed Protective Order Between Highland Capital Management and the Official Committee of Unsecured Creditors

II. KEY PARTIES AND TERMS

Affiliate: An entity under common control or sharing at least 20% ownership with another entity. A list of Affiliates grouped by their shared ownership or control characteristics can be found in Exhibit D at Schedule A (pdf pages 13–14) plus the following funds: Select Equity Fund, L.P., Highland Multi-Strategy Fund, and Highland Restoration Capital Partners.

Committee: The Official Committee of Unsecured Creditors, composed of Acis Capital Management, L.P., the Redeemer Committee of the Crusader Funds, UBS AG, and one other firm.

DAF: “Donor Advised Fund,” referencing Charitable DAF Fund, LP, and its subsidiary CLO Holdco, Ltd. A charitable trust seeded by Highland and that invests in Highland-managed funds. The Trustee, Grant Scott, is a close friend of Jim Dondero.

Dondero, James (Jim): Founder of Highland and President until installation of the Independent Board of Directors of Strand Advisors, Inc. on January 9, 2020. Classified as an Insider.

DSI: Development Specialists, Inc. Highland’s Chief Restructuring Officer firm.

Ellington, Scott: Highland’s General Counsel and Secretary of Strand. Classified as an Insider.

Highland Capital Management, L.P.: The Debtor. An SEC registered investment advisor.

Highland Funds: Or “HCMFA.” Highland Capital Management Funds Advisor, L.P. An affiliated registered investment advisor that manages public mutual funds. Highland Funds has very few of its own employees and mainly operates by using Highland’s employees under a Shared Services Agreement.

Honis, John: Former Highland partner, current manager of Rand Advisors. Rand manages the owner of the majority of Highland’s equity. Honis is a close friend of Jim Dondero.

Independent Board: John S. Dubel, Russel Nelms, and James P. Seery, Jr., the three independent directors installed on January 9, 2020 at Strand under the Term Sheet (Exhibit C hereto).

Insider: Under the Bankruptcy Code, Highland’s general partner Strand, any director or officer of Strand, any relative of Jim Dondero or Mark Okada, any “control person” of a major department at Highland, including the head of Legal (Ellington), Compliance (Surgent), Accounting (Waterhouse), and the former head of Private Equity (Parker). The complete list of individual persons listed as Insiders in Exhibit D, Schedule C is as follows:

Dondero, James	Parker, Lee (Trey)
Dondero, Nancy	Scott, Grant
Ellington, Scott	Surgent, Thomas
Honis, John	Waterhouse, Frank
Okada, Mark	
Okada, Pamela	

Jefferies Bank: A lender to Highland under a prime brokerage account. Also a lender to the Select Fund under a separate prime brokerage account.

NexBank: NexBank, SSB and its holding company are owned in majority part by trusts affiliated with Jim Dondero. For the purposes of this review, should be treated as an Insider.

NexPoint: NexPoint Advisors, L.P. An affiliated registered investment advisor that manages real-estate focused funds, including public mutual funds and some privately issued funds. NexPoint has very few of its own employees and mainly operates by using Highland's employees under a Sub-Advisory Agreement and a Shared Services Agreement. NexPoint manages funds that also have the word "NexPoint" in their names.

Okada, Mark: Co-Founder of Highland and former Chief Investment Officer. Classified as an Insider.

Parker, Trey: Former head of private equity of Highland. Classified as an Insider.

Pachulski: Pachulski, Stang, Ziehl, & Jones LLP. Counsel to Highland.

Related Entity: This term is defined at Exhibit D, page 5. For ease of reference, it is reproduced here: "Related Entity" means collectively (A)(i) any non-publicly traded third party in which Mr. Dondero, Mr. Okada, or Mr. Grant Scott, or Mr. John Honis (with respect to Messrs. Okada, Scott and Honis, only to the extent known by the Debtor) has any direct or indirect economic or ownership interest, including as a beneficiary of a trust; (ii) any entity controlled directly or indirectly by Mr. Dondero, Mr. Okada, Mr. Grant Scott, or Mr. John Honis (with respect to Messrs. Okada, Scott and Honis, only to the extent known by the Debtor); (iii) MGM Holdings, Inc.; (iv) any publicly traded company with respect to which the Debtor or any Related Entity has filed a Form 13D or Form 130; (v) any relative (as defined in Section 101 of the Bankruptcy Code) of Mr. Dondero or Mr. Okada each solely to the extent reasonably knowable by the Debtor; (vi) the Hunter Mountain Investment Trust and Dugaboy Investment Trust; (vii) any entity or person that is an insider of the Debtor under Section 101 (31) the Bankruptcy Code, including any "non-statutory" insider; and (viii) to the extent not included in (A)(i)-(vii), any entity included in the listing of related entities in **Schedule B** hereto (the "Related Entities Listing"); and (B) the following Transactions, (x) any intercompany Transactions with certain affiliates referred to in paragraphs 16.a through 16.e of the Debtor's cash management motion [Del. Docket No. 7]; and (y) any Transactions with Charitable DAF Fund, L.P. (provided, however, that additional parties may be added to this subclause (y) with the mutual consent of the Debtor and the Committee, such consent not to be unreasonably withheld).

Scott, Grant: Trustee of the DAF and friend of Jim Dondero. He has also served as trustee for The Get Good Trust, The Dugaboy Investment Trust, and the SLHC Trust, of which Jim Dondero is a beneficiary.

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Strand Advisors, Inc.: The General Partner of Highland.

Surgent, Thomas: Highland's Chief Compliance Officer. Classified as an Insider.

Waterhouse, Frank: Highland's Chief Financial Officer and Treasurer of Strand. Classified as an Insider.

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Highland is an SEC registered investment advisor with approximately \$10 billion under management between itself and its affiliates. Highland generates revenue in three key ways: first, by directly managing investment funds in exchange for management fees; second, by providing services via shared services or sub-advisory agreements to its affiliated registered investment advisors NexPoint and Highland Funds, who in turn manage investment funds and receive fees from those funds; and third by generating revenue from assets that Highland directly owns on its balance sheet.

The Affiliates mainly fall into three categories. First, the funds in which Highland has an ownership component, such as Select Equity Fund, L.P., Highland Multi-Strategy Fund, and Highland Restoration Capital Partners. *See Exhibit D* at pdf page 6 (Protocols §II). Second, funds owned by third-party investors, but managed by Highland in exchange for a fee. *Id.* at pdf page 13 (Protocols Schedule A.). Third, Funds managed by NexPoint or Highland Funds, which Highland services via a shared services or sub-advisory agreement. *See id.* at pdf pages 13 – 14 (Protocols Schedule A). Affiliates may, but do not have to, also constitute "Related Entities," addressed below (*e.g.*, Highland Capital Management Services, Inc., of which Mr. Dondero owns 75% and Mr. Okada owns 25%).

B. The Bankruptcy Filing

On October 16, 2019 Highland filed for Chapter 11 Bankruptcy protection. The Office of the U.S. Trustee installed a four-member Committee to represent the interests of the unsecured creditors of Highland. Three of the members of the Committee, Acis Capital Management, L.P., the Redeemer Committee of the Crusader Funds, and UBS AG were engaged in litigation against Highland prior to the bankruptcy filing.

As part of a negotiated settlement with the Committee, on January 9, 2020, Mr. Dondero stepped down as the President of Highland and as the sole director of Highland's general partner Strand. The three members of the Independent Board were installed. The terms of the settlement were memorialized in the Preliminary Term Sheet (Exhibit C) and in operating protocols (the

amended version of which is at Exhibit D). In particular, the Settlement granted the Committee standing to pursue “Estate Claims” (Exhibit C, pdf page 4), including claims against Jim Dondero, Mark Okada, their “Related Entities,” and other Insiders.

In pursuing Estate Claims, the Committee is permitted to review and obtain Highland’s otherwise privileged documents. This point will be important in the Privilege Issues section below.

In addition, the Committee also has the right to broadly examine transactions between the Debtor and third parties to determine if such transactions give rise to claims the Highland estate may have (“Third Party Claims”). Unlike Estate Claims, however, the Committee is not permitted to review or obtain Highland’s otherwise privileged documents concerning potential Third Party Claims.

Estate Claims and Third Party claims may include, but are not limited to, claims for (a) fraudulent transfer, (b) preference, (c) other torts, or (d) breach of contract. As a reminder, fraudulent transfers can be one of two types: (1) a constructive fraudulent transfer or (2) an intentional fraudulent transfer. A constructive fraudulent transfer is a transfer by the Debtor for less than reasonably equivalent value when the Debtor is insolvent or is rendered insolvent by the transaction. An intentional fraudulent transfer is a transfer of assets away from the Debtor for the purpose of defrauding or avoiding collection by a third-party creditor. A preference is a payment on an antecedent debt made either (1) 90 days prior to the bankruptcy filing date or (2) one year prior to the filing date, if made to an Insider. To find Insider Preferences, first look for any transfers of cash or asserts to any of the Affiliates listed in Exhibit D.

Note that multi-step transactions require special attention. If a responsive, Estate Claim-type transaction is part of a series of related transactions, each transaction in that series will be treated as an Estate Claim-type transaction. For example, if the Debtor in Transaction 1 transfers Asset A to a third party, and Transaction 2 transfers all or part of Asset A to Dondero, Okada, another Insider, or a Related Entity, then both Transactions 1 and 2 will be treated as related to Estate Claims. If you identify such responsive, multi-step transactions, please bring them to the attention of your supervising counsel. The supervising counsel also will ensure that any such transactions identified by other reviewers are brought to your attention.

IV. DATE RANGE

At this point, the document review process is examining transactions that took place no later than four years before the bankruptcy filing, or October 16, 2015. While all documents in the review set are dated after October 16, 2015, some documents may evidence transactions that took place prior to that date. At this time, those documents should be marked as “Non-Responsive” falling outside the relevant time period.

V. RESPONSIVENESS ISSUES

Unlike in normal litigation, the ability of the Committee to examine potential transactions is not limited by a defined complaint about a particular transaction or set of transactions. Instead, the Committee, which represents the unsecured creditors of Highland, seeks to identify ways to return cash and assets to Highland so they can be used to pay the allowed claims of

Highland's creditors. Therefore, at least for the purposes of your review, the Committee has the ability to examine any transaction that may give rise to a claim by Highland against any third party, including and especially Insiders and Affiliates. Any document evidencing a transfer of cash or assets either to or from Highland during the relevant time period will be "Responsive."

While this responsiveness definition is fairly broad, it has three important limits. First, documents simply evidencing the day-to-day provision of services to a fund generally will not be Responsive in the absence of some indication of misconduct. Second, any transactions to which Highland is not directly or indirectly a party are not Responsive. For example, if Highland, as the manager of a fund, trades that fund's assets to a third party in exchange for consideration back to the fund only, Highland is not a party to such transaction because it merely was operating as the manager of the fund. Third, any documents evidencing transactions between Highland and NexPoint, Highland Funds, or any of their managed funds will be Responsive, but documents merely showing the provision of services by Highland or its employees to these entities will not be Responsive in the absence of some indication of misconduct.

VI. PRIVILEGE ISSUES

As mentioned, the Committee is entitled to Highland's privilege documents that concern or relate to Estate Claims, as defined under the Term Sheet and the Protocols. See Exhibit C at pdf page 4. The Committee is not entitled to Highland's privileged documents relating to Third Party Claims.

Also note that the Committee is not entitled to the Affiliates' privileged documents. If a document evidences legal services on behalf of the Affiliates and otherwise satisfies the elements of attorney-client privilege, that should be marked as Privileged.

VII. CODING FOR RESPONSIVENESS & PRIVILEGE

Each document should be coded as either Responsive or Not Responsive. This coding will confirm that the document has been reviewed and ultimately will be used to determine what documents Highland produces.

1. **Not Responsive:** This tag is for documents that do not evidence relevant transactions as defined in §V above.
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3. **Privileged:** Documents believed to be privileged must be coded as such. Only documents marked as "Responsive" should be marked as Privileged. For example, if a document is legally privileged, but not responsive, it should be marked as "Not Responsive" only. If a document is Responsive, then ask yourself "Is it privileged?" There are two types of privilege:

- a) **Attorney/Client Privileged:** Documents in this category (i) contain legal advice communicated among attorneys or from an attorney to the client or (ii) contain discussion among non-attorneys about the legal advice or analysis of Highland's attorneys. You should examine all

communications between Highland and regulatory or compliance personnel for privilege. While Compliance functions, standing alone, are not subject to privilege, Compliance functions involving legal advice from counsel, whether internal or external, will be privileged.

Also, please note that where in-house counsel are performing purely business functions, these communications will not be privileged. However, you should err on the side of caution and mark the communication as privileged if you believe it mixes business and legal functions. A list of Highland in-house attorneys, Highland regulatory or compliance personnel, and outside counsel during the relevant timeframe that was prepared in connection with other reviews is attached as Exhibit E.

b) **Work Product:** The work product protects documents (including e-mails) prepared in anticipation of litigation. Any documents or emails you see discussing or concerning a potential lawsuit for or against Highland would likely be work product and will be protected even if there is no attorney involved in the conversation. Please mark any such documents as privileged.

VIII. CONTACTS

<u>Name</u>	<u>Organization</u>	<u>Email</u>	<u>Phone Number</u>
[TBD]	[TBD]	[TBD]	[TBD]

MEMORANDUM

Date: June 21~~8~~¹⁸, 2020

To: [Vendor] Robert Half Legal Contract Attorneys

From: Highland Capital Management, L.P. Legal Department; Pachulski Stang Ziehl & Jones, LLP

Re: Document Review Memorandum: *In re Highland Capital Management, L.P.*

This memorandum sets forth the protocol for reviewing Highland Capital Management, L.P.’s (“Highland”) documents in preparation for a document production responsive to the Official Committee of Unsecured Creditors’ (“Committee”) Requests for Production, copies of which are attached (the “Requests”). The purpose of the document review is to determine the privilege and responsiveness status of Highland’s documents that correspond to certain search terms. Accordingly, for each document reviewed, at least one attorney will assess whether the document is: (1) responsive or not responsive and (2) privileged or not privileged. This memorandum is intended to assist you with the review.

I. MATERIALS PROVIDED

Exhibit A: The Official Committee of Unsecured Creditors Expedited Requests for Production of Documents to Highland

Exhibit B: The Official Committee of Unsecured Creditors’ Second Requests for Production of Documents

Exhibit C: Dkt. #354-1, Exhibit A – Preliminary Term Sheet of Highland Capital Management

Exhibit D: Dkt. # 466-1, Debtor’s Amended Operating Protocols

Exhibit E: List of Highland counsel for privilege analysis

Exhibit F: Dkt. #382, Agreed Protective Order Between Highland Capital Management and the Official Committee of Unsecured Creditors

II. KEY PARTIES AND TERMS

Affiliate: An entity under common control or sharing at least 20% ownership with another entity. A list of Affiliates grouped by their shared ownership or control characteristics can be found in Exhibit D at Schedule A (pdf pages ~~1013-1114~~¹⁰¹³⁻¹¹¹⁴) plus the following funds: Select Equity Fund, L.P., Highland Multi-Strategy Fund, and Highland Restoration Capital Partners.

Committee: The Official Committee of Unsecured Creditors, composed of Acis Capital Management, L.P., the Redeemer Committee of the Crusader Funds, UBS AG, and one other firm.

DAF: “Donor Advised Fund,” referencing Charitable DAF Fund, LP, and its subsidiary CLO Holdco, Ltd. A charitable trust seeded by Highland and that invests in Highland-managed funds. The Trustee, Grant Scott, is a close friend of Jim Dondero.

Dondero, James (Jim): Founder of Highland and President until installation of the Independent Board of Directors of Strand Advisors, Inc. on January 9, 2020. Classified as an Insider.

DSI: Development Specialists, Inc. Highland’s Chief Restructuring Officer firm.

Ellington, Scott: Highland’s General Counsel and Secretary of Strand. Classified as an Insider.

Highland Capital Management, L.P.: The Debtor. An SEC registered investment advisor.

Highland Funds: Or “HCMFA.” Highland Capital Management Funds Advisor, L.P. An affiliated registered investment advisor that manages public mutual funds. Highland Funds has very few of its own employees and mainly operates by using Highland’s employees under a Shared Services Agreement.

Honis, John: Former Highland partner, current manager of Rand Advisors. Rand manages the owner of the majority of Highland’s equity. Honis is a close friend of Jim Dondero.

Independent Board: John S. Dubel, Russel Nelms, and James P. Seery, Jr., the three independent directors installed on January 9, 2020 at Strand under the Term Sheet (Exhibit C hereto).

Insider: Under the Bankruptcy Code, Highland’s general partner Strand, any director or officer of Strand, any relative of Jim Dondero or Mark Okada, any “control person” of a major department at Highland, including the head of Legal (Ellington), Compliance (Surgent), Accounting (Waterhouse), and the former head of Private Equity (Parker). [The complete list of individual persons listed as Insiders in Exhibit D, Schedule C is as follows:](#)

[Dondero, James](#)
[Dondero, Nancy](#)
[Ellington, Scott](#)
[Honis, John](#)
[Okada, Mark](#)
[Okada, Pamela](#)

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Highland is an SEC registered investment advisor with approximately \$10 billion under management between itself and its affiliates. Highland generates revenue in three key ways: first, by directly managing investment funds in exchange for management fees; second, by providing services via shared services or sub-advisory agreements to its affiliated registered investment advisors NexPoint and Highland Funds, who in turn manage investment funds and receive fees from those funds; and third by generating revenue from assets that Highland directly owns on its balance sheet.

The Affiliates mainly fall into three categories. First, the funds in which Highland has an ownership component, such as Select Equity Fund, L.P., Highland Multi-Strategy Fund, and Highland Restoration Capital Partners. *See Exhibit D* at pdf page 26 (Protocols §II). Second, funds owned by third-party investors, but managed by Highland in exchange for a fee. *Id.* at pdf page 913 (Protocols Schedule A₁). Third, Funds managed by NexPoint or Highland Funds, which Highland services via a shared services or sub-advisory agreement. *See id.* at pdf pages 913–1014 (Protocols Schedule A). Affiliates may, but do not have to, also constitute “Related Entities,” addressed below (*e.g.*, Highland Capital Management Services, Inc., of which Mr. Dondero owns 75% and Mr. Okada owns 25%).

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In pursuing Estate Claims, the Committee is permitted to review and obtain Highland’s otherwise privileged documents. This point will be important in the Privilege Issues section below.

In addition, the Committee also has the right to broadly examine transactions between the Debtor and third parties to determine if such transactions give rise to claims the Highland estate may have (“Third Party Claims”). Unlike Estate Claims, however, the Committee is not permitted to review or obtain Highland’s otherwise privileged documents concerning potential Third Party Claims.

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<u>Name</u>	<u>Organization</u>	<u>Email</u>	<u>Phone Number</u>
[TBD]	[TBD]	[TBD]	[TBD]

Document comparison by Workshare 10.0 on Friday, June 19, 2020 1:04:45 PM

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Document 1 ID	PowerDocs://DOCS_NY/40606/4
Description	DOCS_NY-#40606-v4-Highland_BK_Document_Review
Document 2 ID	PowerDocs://DOCS_NY/40606/5
Description	DOCS_NY-#40606-v5-Highland_BK_Document_Review
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	33
Deletions	13
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	46

EXHIBIT 8

Monthly Operating Report (May 2020)

**Monthly Operating Report
ACCRUAL BASIS**

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054
JUDGE:	Stacey Jernigan


**UNITED STATES BANKRUPTCY COURT
NORTHERN & EASTERN DISTRICTS OF TEXAS
REGION 6**

MONTHLY OPERATING REPORT

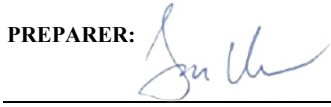
MONTH ENDING: May 2020
MONTH YEAR

IN ACCORDANCE WITH TITLE 28, SECTION 1746, OF THE UNITED STATES CODE, I DECLARE UNDER PENALTY OF PERJURY THAT I HAVE EXAMINED THE FOLLOWING MONTHLY OPERATING REPORT (ACCRUAL BASIS-1 THROUGH ACCRUAL BASIS-7) AND THE ACCOMPANYING ATTACHMENTS AND, TO THE BEST OF MY KNOWLEDGE, THESE DOCUMENTS ARE TRUE, CORRECT, AND COMPLETE. DECLARATION OF THE PREPARER (OTHER THAN RESPONSIBLE PARTY) IS BASED ON ALL INFORMATION OF WHICH PREPARER HAS ANY KNOWLEDGE.

RESPONSIBLE PARTY:


ORIGINAL SIGNATURE OF RESPONSIBLE PARTY
Chief Restructuring Officer
TITLE
Bradley Sharp
PRINTED NAME OF RESPONSIBLE PARTY
6/30/2020
DATE

PREPARER:


ORIGINAL SIGNATURE OF PREPARER
Chief Financial Officer
TITLE
Frank Waterhouse
PRINTED NAME OF PREPARER
06/30/2020
DATE



193405420070200000000001

Monthly Operating Report
ACCRUAL BASIS-1

CASE NAME:	Highland Capital Management, LP
CASE NUMBER:	19-12239-CSS

Comparative Balance Sheet
(in thousands)

	<u>10/15/2019</u>	<u>12/31/2019 ⁽⁶⁾</u>	<u>5/31/2020 ⁽⁶⁾</u>
Assets			
Cash and cash equivalents	2,529	9,501	9,917
Investments, at fair value ⁽³⁾	232,620	232,820	127,724
Equity method investees ⁽³⁾	161,819	174,902	98,844
Management and incentive fee receivable	2,579	1,929	1,839
Fixed assets, net	3,754	3,521	3,131
Due from affiliates ⁽¹⁾	151,901	146,245	148,480
Reserve against notes receivable		(57,963)	(57,963)
Other assets	11,311	11,493	16,751
Total assets	\$ 566,513	\$ 522,448	\$ 348,722
Liabilities and Partners' Capital			
Pre-petition accounts payable ⁽⁴⁾	1,176	1,141	1,044
Post-petition accounts payable ⁽⁴⁾	-	2,042	1,055
Secured debt:			
Frontier	5,195	5,195	5,195
Jefferies	30,328	30,020	-
Accrued expenses and other liabilities ⁽⁴⁾	59,203	63,336	60,583
Accrued re-organization related fees ⁽⁵⁾	-	5,532	11,134
Claim accrual ⁽²⁾	73,997	73,997	73,997
Partners' capital	396,614	341,185	195,713
Total liabilities and partners' capital	\$ 566,513	\$ 522,448	\$ 348,722

⁽¹⁾ Includes various notes receivable at carrying value, except note due from Hunter Mountain Investment Trust which is fully reserved against (\$58M reserve). Fair value has not been determined with respect to any of the notes.

⁽²⁾ Uncontested portion of Redeemer claim less applicable offsets. Potential for additional liability based on future events. No interest has been accrued beyond petition date.

⁽³⁾ Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

⁽⁴⁾ Note on accruals: expenses recorded in Accounts Payable and Accrued Expenses and Other Liabilities reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices. For balance sheet dates other than the Petition Date, amounts include both pre-petition and post-petition liabilities.

⁽⁵⁾ Beginning December 31st, 2019, Debtor accrued for post-petition re-organization fees based upon an estimate of fees incurred to date.

⁽⁶⁾ All balances at December 31st, 2019 are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, balances for subsequent months have and will fluctuate.

Monthly Operating Report
ACCRUAL BASIS-2

CASE NAME:	Highland Capital Management, LP
CASE NUMBER:	19-12239-CSS

Income Statement¹
(in thousands)

	Filing to Year Ended ⁽⁴⁾	Quarter ⁽⁴⁾	Month ended ⁽⁴⁾	Filing to date ⁽⁴⁾
	2019	1/1/2020 - 3/31/2020	5/31/2020	
Revenue:				
Management fees	4,328	5,453	1,616	11,397
Shared services fees	1,638	1,842	603	4,082
Other income	689	1,261	1,423	3,373
Total operating revenue	6,655	8,555	3,642	18,852
Operating expenses:				
Compensation and benefits	4,867	3,387	1,670	9,924
Professional services	609	824	134	1,567
Investment research and consulting	52	282	5	339
Marketing and advertising expense	72	22	-	94
Depreciation expense	243	233	77	553
Bad debt expense reserve	-	-	-	-
Other operating expenses	1,126	1,105	544	2,775
Total operating expenses	6,969	5,853	2,430	15,252
Operating income/(loss)	(313)	2,702	1,212	3,600
Other income/expense:				
Interest income	1,230	1,432	493	3,155
Interest expense	(325)	(259)	(48)	(631)
Reserve against notes receivable	(57,963)	-	-	(57,963)
Re-org related expenses ⁽²⁾	(2,717)	(8,256)	(1,815)	(12,788)
Independent director fees	-	(681)	(100)	(781)
Other income/expense	32	3	(6)	29
Total other income/expense	(59,744)	(7,761)	(1,475)	(68,979)
Net realized gains/(losses) on investments	618	(17,786)	(8,566)	(25,734)
Net change in unrealized gains/(losses) of investments ⁽³⁾	6,065	(51,967)	12,434	(33,468)
	6,683	(69,753)	3,868	(59,202)
Net earnings/(losses) from equity method investees ⁽³⁾	13,312	(87,583)	11,495	(62,776)
Net income/(loss)	\$ (40,062)	\$ (162,395)	\$ 15,100	\$ (187,357)

(1) Note on accruals: expenses recorded in the Income Statement reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but yet received invoices.

(2) Debtor funded various retainers totaling \$790k prior to the petition date, which were entirely expensed as of the petition date.

(3) Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

(4) All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, operating results will change as these entries are made.

Monthly Operating Report
ACCRUAL BASIS-3A

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

CASH RECEIPTS AND DISBURSEMENTS	FILING TO YEAR END 2019	QUARTER	APRIL	MAY
1. CASH - BEGINNING OF MONTH	\$ 2,554,230	\$ 9,501,409	\$ 12,532,467	\$ 10,343,036
RECEIPTS FROM OPERATIONS				
2. OTHER OPERATING RECEIPTS	\$ 1,862,757	\$ 1,379,338	\$ 825,387	\$ 1,687,854
3. MANAGEMENT FEES AND OTHER RELATED RECEIPTS	\$ 3,156,742	\$ 7,555,297	\$ 1,708,720	\$ 3,188,304
COLLECTION OF ACCOUNTS RECEIVABLE				
4. PREPETITION	\$ 3,593,108	\$ 76,569	\$ 3,727	\$ -
5. POSTPETITION ¹	\$ -	\$ -	\$ -	\$ -
6. TOTAL OPERATING RECEIPTS	\$ 8,612,608	\$ 9,011,204	\$ 2,537,834	\$ 4,876,158
NON-OPERATING RECEIPTS				
7. THIRD PARTY FUND ACTUAL/EXPECTED DISTRIBUTIONS	\$ 423,468	\$ 18,992,786	\$ -	\$ 319,242
8. DIVS, PAYDOWNS, MISC FROM INVESTMENT ASSETS	\$ 1,338,069	\$ 477,479	\$ 36,007	\$ 36,007
9. OTHER (ATTACH LIST)	\$ 3,390,286	\$ 1,407,103	\$ 10,000	\$ -
10. TOTAL NON-OPERATING RECEIPTS	\$ 5,151,822	\$ 20,877,369	\$ 46,007	\$ 355,249
11. TOTAL RECEIPTS	\$ 13,764,430	\$ 29,888,573	\$ 2,583,841	\$ 5,231,407
12. TOTAL CASH AVAILABLE			\$ 15,116,308	\$ 15,574,443
OPERATING DISBURSEMENTS				
13. PAYROLL, BENEFITS, AND TAXES + EXP REIMB	\$ 3,776,446	\$ 8,825,042	\$ 1,441,850	\$ 1,183,140
14. SINGAPORE SERVICE FEES	\$ 95,118	\$ 58,129	\$ 2,965	\$ -
15. HCM LATIN AMERICA	\$ 200,000	\$ 100,000	\$ -	\$ -
16. THIRD PARTY FUND CAPITAL CALL OBLIGATION	\$ 1,426,987	\$ 7,812,469	\$ 726,000	\$ 2,000,000
17. UTILITIES	\$ -	\$ -	\$ -	\$ -
18. INSURANCE	\$ -	\$ 533,940	\$ 10,500	\$ 330,000
19. INVENTORY PURCHASES	\$ -	\$ -	\$ -	\$ -
20. VEHICLE EXPENSES	\$ -	\$ -	\$ -	\$ -
21. TRAVEL	\$ -	\$ -	\$ -	\$ -
22. ENTERTAINMENT	\$ -	\$ -	\$ -	\$ -
23. REPAIRS & MAINTENANCE	\$ -	\$ -	\$ -	\$ -
24. SUPPLIES	\$ -	\$ -	\$ -	\$ -
25. ADVERTISING	\$ -	\$ -	\$ -	\$ -
26. OTHER (ATTACH LIST)	\$ 1,318,700	\$ 3,283,898	\$ 851,659	\$ 1,277,268
27. TOTAL OPERATING DISBURSEMENTS	\$ 6,817,251	\$ 20,613,478	\$ 3,032,974	\$ 4,790,407
REORGANIZATION EXPENSES				
28. PROFESSIONAL FEES	\$ -	\$ 5,460,546	\$ 1,740,298	\$ 550,170
29. U.S. TRUSTEE FEES	\$ -	\$ 68,173	\$ -	\$ 167,025
30. OTHER (ATTACH LIST)	\$ -	\$ 715,317	\$ -	\$ 150,000
31. TOTAL REORGANIZATION EXPENSES	\$ -	\$ 6,244,037	\$ 1,740,298	\$ 867,195
32. TOTAL DISBURSEMENTS	\$ 6,817,251	\$ 26,857,515	\$ 4,773,272	\$ 5,657,602
33. NET CASH FLOW	\$ 6,947,179	\$ 3,031,058	\$ (2,189,431)	\$ (426,195)
34. CASH - END OF MONTH	\$ 9,501,409	\$ 12,532,467	\$ 10,343,036	\$ 9,916,841

¹ All postpetition receipts are included in line 3, Management Fees and Other Related Receipts.

Monthly Operating Report
ACCRUAL BASIS-3B

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

OPERATING DISBURSMENTS - OTHER

Date	Amount	Vendor
5/1/2020	389.32	UPS Small Package
5/1/2020	73.36	Markit WSO Corporation
5/1/2020	105.48	Arkadin Inc
5/1/2020	1,100.00	Ace Parking Lot 3749
5/1/2020	1,745.14	DTCC ITP LLC
5/1/2020	4,812.82	Liberty Life Assurance Co of Boston
5/1/2020	4,975.90	ASW Law Limited - USD Account
5/1/2020	17,153.26	Concur Technologies Inc
5/1/2020	18,700.47	Third Party Consultant
5/1/2020	140,800.00	Intex Solutions, Inc.
5/1/2020	158,453.88	Crescent TC Investors LP
5/1/2020	307,026.32	Bloomberg Finance LP
5/4/2020	335.90	AT&T
5/8/2020	765.36	ProStar Services, Inc
5/8/2020	109.28	Chase Couriers, Inc.
5/8/2020	3,598.16	AT&T
5/8/2020	12,180.00	M.Q. Services Ltd.
5/8/2020	61,699.50	Advent software, Inc.
5/8/2020	189,332.14	Siepe Services LLC
5/11/2020	325.00	USI Southwest, Inc.
5/11/2020	3,989.97	Chick-fil-A
5/11/2020	1,476.50	Verity Group
5/11/2020	2,439.85	Gold's Gym International
5/11/2020	750.00	Southland Property Tax Consultants, Inc
5/12/2020	6,164.54	TW Telecom Holdings, Ilc
5/14/2020	228.05	AT&T
5/15/2020	5,063.10	North Texas Trim And Hardware, LLC
5/15/2020	28.00	Ace Parking Management Inc.
5/15/2020	7,995.00	Intralinks
5/15/2020	3,500.00	MaplesFS Service Company Limited
5/15/2020	681.05	Houlihan Lokey
5/12/2020	400.00	Pitney
5/14/2020	531.87	Direct TV
5/12/2020	2,584.26	Xerox
5/15/2020	3,981.82	Standard Insurance
5/19/2020	23,518.15	ConvergeOne, Inc.
5/19/2020	400.00	Pitney Bowes- Purchase Power
5/22/2020	4,812.82	Liberty Life Assurance Company of Boston - Group Benefits
5/22/2020	3,678.28	BOK Financial Asset Management
5/22/2020	2,250.17	Arkadin, Inc.
5/22/2020	1,828.02	CDW Direct
5/22/2020	1,388.22	Ace Parking Management Inc.
5/22/2020	586.81	UPS Supply Chain Solutions
5/22/2020	1,613.41	ProStar Services, Inc
5/18/2020	970.27	AT&T
5/19/2020	1,971.88	Zayo Group
5/19/2020	300.00	Pitney Bowes Bank Inc- Reserve Acct
5/20/2020	5,931.14	AT&T
5/22/2020	7,670.53	Advent software, Inc.
5/26/2020	900.00	Crescent Research
5/26/2020	300.00	Delaware Secretary of State
5/26/2020	25,835.58	The Bureau of National Affairs, Inc
5/27/2020	2,464.33	Iron Mountain Records Management
5/29/2020	20,065.56	HE Asante, LLC
5/29/2020	11,975.30	Flexential Colorado Corp.
5/26/2020	5,790.13	Third Party Consultant
5/29/2020	12,231.30	Third Party Consultant
5/29/2020	68,934.31	MaplesFS Service Company Limited
5/29/2020	108,356.01	Maples and Calder
\$ 1,277,267.52		

REORGANIZATION EXPENSES - OTHER

Date	Amount	Description
5/1/2020	50,000.00	Russell F. Nelms
5/1/2020	50,000.00	Dubel & Associates, LLC
5/4/2020	50,000.00	James P. Seery, Jr.
150,000.00		

Monthly Operating Report
ACCRUAL BASIS-4

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MGMT FEE RECEIVABLE AGING ²	February ³	March ³	April ³	May ³
1. 0-30	\$ 1,614,232	\$ 1,835,632	\$2,583,565	\$1,839,132
2. 31-60				
3. 61-90				
4. 91+				
5. TOTAL MGMT FEE RECEIVABLE	\$ 1,614,232	\$ 1,835,632	\$ 2,583,565	\$1,839,132
6. AMOUNT CONSIDERED UNCOLLECTIBLE				
7. MGMT FEE RECEIVABLE (NET)	\$ 1,614,232	\$ 1,835,632	\$ 2,583,565	\$1,839,132

AGING OF POSTPETITION TAXES AND PAYABLES			MONTH: May 2020		
TAXES PAYABLE	0-30 DAYS	31-60 DAYS	61-90 DAYS	91+ DAYS	TOTAL
1. FEDERAL					\$0
2. STATE					\$0
3. LOCAL					\$0
4. OTHER (ATTACH LIST)					\$0
5. TOTAL TAXES PAYABLE	\$0	\$0	\$0	\$0	\$0
6. ACCOUNTS PAYABLE	\$703,643	\$24,656	\$123,368	\$203,806	\$1,055,472

STATUS OF POSTPETITION TAXES ¹		MONTH: May 2020		
	BEGINNING TAX LIABILITY	AMOUNT WITHHELD AND/OR ACCRUED	AMOUNT PAID	ENDING TAX LIABILITY
FEDERAL				
1. WITHHOLDING				\$0
2. FICA-EMPLOYEE				\$0
3. FICA-EMPLOYER				\$0
4. UNEMPLOYMENT				\$0
5. INCOME				\$0
6. OTHER (ATTACH LIST)				\$0
7. TOTAL FEDERAL TAXES	\$0	\$0	\$0	\$0
STATE AND LOCAL				
8. WITHHOLDING				\$0
9. SALES				\$0
10. EXCISE				\$0
11. UNEMPLOYMENT				\$0
12. REAL PROPERTY	\$0	\$0	\$0	\$0
13. PERSONAL PROPERTY				\$0
14. OTHER (ATTACH LIST)				\$0
15. TOTAL STATE & LOCAL	\$0	\$0	\$0	\$0
16. TOTAL TAXES	\$0	\$0	\$0	\$0

- 1 The Debtor funds all state and federal employment taxes to Paylocity, who files all required federal and state related employment reports and withholdings.
- 2 Aging based on when management fee is due and payable.
- 3 All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process.

Monthly Operating Report
 ACCRUAL BASIS-5

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: May 2020

BANK RECONCILIATIONS	Account #1	Account #2	Account #3	Account #4	Account #5	Account #6	
A. BANK:	East West Bank	East West Bank	Maxim Group	Jefferies LLC	Nexbank	East West Bank	TOTAL
B. ACCOUNT NUMBER:	x4686	x4693	x1885	x0932	x5891	x5848	
C. PURPOSE (TYPE):	Operating	Insurance	Brokerage	Brokerage	CD	Prepaid Card	
1. BALANCE PER BANK STATEMENT ¹	\$ 9,220,374	\$ 393,363	\$ 72,013	\$ -	\$ 137,009	\$ 100,020	\$ 9,922,781
2. ADD: TOTAL DEPOSITS NOT CREDITED							\$ -
3. SUBTRACT: OUTSTANDING CHECKS	\$ 5,940						\$ 5,940
4. OTHER RECONCILING ITEMS							\$ -
5. MONTH END BALANCE PER BOOKS	\$ 9,214,434	\$ 393,363	\$ 72,013	\$ -	\$ 137,009	\$ 100,020	\$ 9,916,841
6. NUMBER OF LAST CHECK WRITTEN	100505	n/a	n/a	n/a	n/a	n/a	

INVESTMENT ACCOUNTS	DATE OF PURCHASE	TYPE OF INSTRUMENT	PURCHASE PRICE	CURRENT VALUE
BANK, ACCOUNT NAME & NUMBER				
7.				
8.				
9.				
10.				
11. TOTAL INVESTMENTS			\$0	\$0

CASH	
12. CURRENCY ON HAND	\$0
13. TOTAL CASH - END OF MONTH	\$9,916,841

1 Account x6342 is now closed.

Monthly Operating Report
ACCRUAL BASIS-6

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: May 2020

PAYMENTS TO INSIDERS AND PROFESSIONALS

INSIDERS				
	NAME	TYPE OF PAYMENT	AMOUNT PAID	TOTAL PAID POST PETITION
1	Frank Waterhouse	Salary	\$29,167	\$218,750
2	Frank Waterhouse	Expense Reimbursement	\$436	\$3,659
3	Scott Ellington	Salary	\$37,500	\$281,250
4	Scott Ellington	Expense Reimbursement	\$766	\$4,826
5	James Dondero	Salary	\$0	\$129,972
6	James Dondero	Expense Reimbursement ¹	\$0	\$16,918
7	Thomas Surgent	Salary	\$33,333	\$250,000
8	Thomas Surgent	Expense Reimbursement	\$545	\$2,775
9	Trey Parker	Salary	\$0	\$131,250
10	Trey Parker	Expense Reimbursement	\$0	\$6,212
TOTAL PAYMENTS TO INSIDERS			\$101,747	\$1,045,611

¹ The total amount of reimbursements during the reporting month also included \$11,573 for use of the credit card by the Debtor for office related expenses such as subscriptions, vending supplies, marketing and IT equipment/software.

PROFESSIONALS²					
	NAME	DATE OF MONTHLY FEE APPLICATION	AMOUNT APPROVED	AMOUNT PAID	TOTAL PAID TO DATE
1.	Kurtzman Carson Consultants LLC				\$214,005
2.	Sidley Austin LLP				\$1,538,374
3.	Young Conaway Stargatt & Taylor LLP				\$281,156
4.	FTI Consulting, Inc.				\$1,031,619
5.	Pachulski Stang Ziehl & Jones LLP				\$2,988,427
6.	Hayward & Associates PLLC		\$97,043	\$97,043	\$112,079
7.	Development Specialists, Inc.				\$1,099,973
8.	Foley & Lardner LLP			398,127.12	398,127.12
TOTAL PAYMENTS TO PROFESSIONALS				\$495,170	\$7,663,760

² Does not include payments to ordinary course professionals.

POSTPETITION STATUS OF SECURED NOTES, LEASES PAYABLE AND ADEQUATE PROTECTION PAYMENTS

	NAME OF CREDITOR	SCHEDULED MONTHLY PAYMENTS DUE	AMOUNTS PAID DURING MONTH	TOTAL UNPAID POSTPETITION
1.	Crescent TC Investors LP (rent portion only)	130,364	130,364	-
2.				
3.				
4.				
5.				
6.	TOTAL	130,364	\$130,364	\$0

Monthly Operating Report ACCRUAL BASIS-7

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: May 2020

QUESTIONNAIRE

	YES	NO
1. HAVE ANY ASSETS BEEN SOLD OR TRANSFERRED OUTSIDE THE NORMAL COURSE OF BUSINESS THIS REPORTING PERIOD?		x
2. HAVE ANY FUNDS BEEN DISBURSED FROM ANY ACCOUNT OTHER THAN A DEBTOR IN POSSESSION ACCOUNT?		x
3. ARE ANY POSTPETITION RECEIVABLES (ACCOUNTS, NOTES, OR LOANS) DUE FROM RELATED PARTIES?	x	
4. HAVE ANY PAYMENTS BEEN MADE ON PREPETITION LIABILITIES THIS REPORTING PERIOD?	x	
5. HAVE ANY POSTPETITION LOANS BEEN RECEIVED BY THE DEBTOR FROM ANY PARTY?		x
6. ARE ANY POSTPETITION PAYROLL TAXES PAST DUE?		x
7. ARE ANY POSTPETITION STATE OR FEDERAL INCOME TAXES PAST DUE?		x
8. ARE ANY POSTPETITION REAL ESTATE TAXES PAST DUE?		x
9. ARE ANY OTHER POSTPETITION TAXES PAST DUE?		x
10. ARE ANY AMOUNTS OWED TO POSTPETITION CREDITORS DELINQUENT?		x
11. HAVE ANY PREPETITION TAXES BEEN PAID DURING THE REPORTING PERIOD?		x
12. ARE ANY WAGE PAYMENTS PAST DUE?		x

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "YES," PROVIDE A DETAILED EXPLANATION OF EACH ITEM. ATTACH ADDITIONAL SHEETS IF NECESSARY.

- | | |
|---|--|
| 3 | Debtor generates fee income and other receipts from various related parties in normal course, see cash management motion for further discussion. |
| 4 | Payments have been made on prepetition liabilities, as approved in the critical vendor motion. |

INSURANCE

	YES	NO
1. ARE WORKER'S COMPENSATION, GENERAL LIABILITY AND OTHER NECESSARY INSURANCE COVERAGES IN EFFECT?	x	
2. ARE ALL PREMIUM PAYMENTS PAID CURRENT?	x	
3. PLEASE ITEMIZE POLICIES BELOW.		

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "NO," OR IF ANY POLICIES HAVE BEEN CANCELLED OR NOT RENEWED DURING THIS REPORTING PERIOD, PROVIDE AN EXPLANATION BELOW. ATTACH ADDITIONAL SHEETS IF NECESSARY.

INSTALLMENT PAYMENTS			
TYPE OF POLICY	CARRIER	PERIOD COVERED	PAYMENT AMOUNT & FREQUENCY

EXHIBIT 9

Monthly Operating Report (June 2020)

Monthly Operating Report ACCRUAL BASIS

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054
JUDGE:	Stacey Jernigan

UNITED STATES BANKRUPTCY COURT

Docket #0913 Date Filed: 08/03/2020

NORTHERN & EASTERN DISTRICTS OF TEXAS

REGION 6

MONTHLY OPERATING REPORT

MONTH ENDING: June 2020
MONTH YEAR

IN ACCORDANCE WITH TITLE 28, SECTION 1746, OF THE UNITED STATES CODE, I DECLARE UNDER PENALTY OF PERJURY THAT I HAVE EXAMINED THE FOLLOWING MONTHLY OPERATING REPORT (ACCRUAL BASIS-1 THROUGH ACCRUAL BASIS-7) AND THE ACCOMPANYING ATTACHMENTS AND, TO THE BEST OF MY KNOWLEDGE, THESE DOCUMENTS ARE TRUE, CORRECT, AND COMPLETE. DECLARATION OF THE PREPARER (OTHER THAN RESPONSIBLE PARTY) IS BASED ON ALL INFORMATION OF WHICH PREPARER HAS ANY KNOWLEDGE.

RESPONSIBLE PARTY:

ORIGINAL SIGNATURE OF RESPONSIBLE PARTY

James Seery

PRINTED NAME OF RESPONSIBLE PARTY

Chief Restructuring Officer/ CEO
TITLE

DATE

PREPARER:

ORIGINAL SIGNATURE OF PREPARER

Frank Waterhouse

PRINTED NAME OF PREPARER

Chief Financial Officer

TITLE

07.31.20

DATE



193405420080300000000005

Monthly Operating Report
ACCRUAL BASIS-1

CASE NAME:	Highland Capital Management, LP
CASE NUMBER:	19-12239-CSS

Comparative Balance Sheet
(in thousands)

	10/15/2019	12/31/2019 ⁽⁶⁾	6/30/2020 ⁽⁶⁾
Assets			
Cash and cash equivalents	2,529	9,501	14,994
Investments, at fair value ⁽³⁾	232,620	232,820	119,991
Equity method investees ⁽³⁾	161,819	183,529	102,914
Management and incentive fee receivable	2,579	1,929	2,976
Fixed assets, net	3,754	3,521	3,055
Due from affiliates ⁽¹⁾	151,901	146,245	150,814
Reserve against notes recievable		(57,963)	(57,963)
Other assets	11,311	11,493	14,962
Total assets	\$ 566,513	\$ 531,076	\$ 351,742
Liabilities and Partners' Capital			
Pre-petition accounts payable ⁽⁴⁾	1,176	1,141	1,053
Post-petition accounts payable ⁽⁴⁾	-	2,042	932
Secured debt:			
Frontier	5,195	5,195	5,195
Jefferies	30,328	30,020	-
Accrued expenses and other liabilities ⁽⁴⁾	59,203	63,336	60,715
Accrued re-organization related fees ⁽⁵⁾	-	5,532	10,745
Claim accrual ⁽²⁾	73,997	73,997	73,997
Partners' capital	396,614	349,812	199,105
Total liabilities and partners' capital	\$ 566,513	\$ 531,076	\$ 351,742

⁽¹⁾ Includes various notes receivable at carrying value, except note due from Hunter Mountain Investment Trust which is fully reserved against (\$58M reserve). Fair value has not been determined with respect to any of the notes.

⁽²⁾ Uncontested portion of Redeemer claim less appplicable offsets. Potential for additional liability based on future events. No interest has been accrued beyond petition date.

⁽³⁾ Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

⁽⁴⁾ Note on accruals: expenses recorded in Accounts Payable and Accrued Expenses and Other Liabilities reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices. For balance sheet dates other than the Petition Date, amounts include both pre-petition and post-petition liabilities.

⁽⁵⁾ Beginning December 31st, 2019, Debtor accrued for post-petition re-organization fees based upon an estimate of fees incurred to date.

⁽⁶⁾ All balances at December 31st, 2019 are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, balances for subsequent months have and will fluctuate.

Monthly Operating Report
ACCRUAL BASIS-2

CASE NAME:	Highland Capital Management, LP	
CASE NUMBER:	19-12239-CSS	

Income Statement ¹
(in thousands)

	Date	Filing to Year Ended ⁽⁴⁾	Month ended ⁽⁴⁾	Filing to date ⁽⁴⁾
	10/16/19 - 10/31/19	2019	6/30/2020	
Revenue:				
Management fees	975	4,528	1,754	15,206
Shared services fees	283	1,588	601	5,279
Other income	99	1,582	145	4,583
Total operating revenue	1,357	7,697	2,500	25,068
Operating expenses:				
Compensation and benefits	997	1,498	2,044	10,534
Professional services	256	64	187	1,332
Investment research and consulting	10	266	148	709
Marketing and advertising expense	-	370	(8)	422
Depreciation expense	82	244	76	709
Bad debt expense reserve	-	8,410	-	8,410
Other operating expenses	201	1,265	345	3,731
Total operating expenses	1,545	12,118	2,792	25,846
Operating income/(loss)	(188)	(4,421)	(292)	(779)
Other income/expense:				
Interest income	250	1,230	482	4,133
Interest expense	(107)	(346)	(47)	(813)
Reserve against notes receivable	-	(57,963)	-	(57,963)
Re-org related expenses ⁽²⁾	-	(5,532)	(2,813)	(21,932)
Independent director fees	-	-	(207)	(1,122)
Other income/expense	32	32	(1)	(102)
Total other income/expense	175	(62,579)	(2,585)	(77,799)
Net realized gains/(losses) on investments	339	618	(3,113)	(27,800)
Net change in unrealized gains/(losses) of investments ⁽³⁾	2,654	(955)	5,236	(30,884)
	2,993	(337)	2,123	(58,684)
Net earnings/(losses) from equity method investees ⁽³⁾	(20)	14,918	(4,558)	(65,864)
Net income/(loss)	\$ 2,959	\$ (52,419)	\$ (5,311)	\$ (203,126)

(1) Note on accruals: expenses recorded in the Income Statement reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices.

(2) Debtor funded various retainers totaling \$790k prior to the petition date, which were entirely expensed as of the petition date.

(3) Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

(4) All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, operating results will change as these entries are made.

Monthly Operating Report
ACCRUAL BASIS-3A

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

CASH RECEIPTS AND DISBURSEMENTS	FILING TO YEAR END 2019	QUARTER	APRIL	MAY	JUNE	QUARTER
1. CASH - BEGINNING OF MONTH	\$ 2,554,230	\$ 9,501,409	\$ 12,532,467	\$ 10,343,036	\$ 9,916,841	\$ 12,532,467
RECEIPTS FROM OPERATIONS						
2. OTHER OPERATING RECEIPTS	\$ 1,862,757	\$ 1,379,338	\$ 825,387	\$ 1,687,854	\$ 469,980	\$ 2,983,221
3 MANAGEMENT FEES AND OTHER RELATED RECEIPTS	\$ 3,156,742	\$ 7,555,297	\$ 1,708,720	\$ 3,188,304	\$ 1,282,412	\$ 6,179,437
COLLECTION OF ACCOUNTS RECEIVABLE						
4 PREPETITION	\$ 3,593,108	\$ 76,569	\$ 3,727	\$ -	\$ -	\$ 3,727
5 POSTPETITION ¹	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6 TOTAL OPERATING RECEIPTS	\$ 8,612,608	\$ 9,011,204	\$ 2,537,834	\$ 4,876,158	\$ 1,752,392	\$ 9,166,385
NON-OPERATING RECEIPTS						
THIRD PARTY FUND ACTUAL/EXPECTED DISTRIBUTIONS						
7	\$ 423,468	\$ 18,992,786	\$ -	\$ 319,242	\$ 478,329	\$ 797,571
8 DIVS, PAYDOWNS, MISC FROM INVESTMENT ASSETS	\$ 1,338,069	\$ 477,479	\$ 36,007	\$ 36,007	\$ 2,363	\$ 74,376
9 OTHER (ATTACH LIST)	\$ 3,390,286	\$ 1,407,103	\$ 10,000	\$ -	\$ 10,000,000	\$ 10,010,000
10 TOTAL NON-OPERATING RECEIPTS	\$ 5,151,822	\$ 20,877,369	\$ 46,007	\$ 355,249	\$ 10,480,691	\$ 10,881,947
11 TOTAL RECEIPTS	\$ 13,764,430	\$ 29,888,573	\$ 2,583,841	\$ 5,231,407	\$ 12,233,084	\$ 20,048,331
12 TOTAL CASH AVAILABLE			\$ 15,116,308	\$ 15,574,443	\$ 22,149,925	
OPERATING DISBURSEMENTS						
13 PAYROLL, BENEFITS, AND TAXES + EXP REIMB	\$ 3,776,446	\$ 8,825,042	\$ 1,441,850	\$ 1,183,140	\$ 2,261,324	\$ 4,886,314
14 SINGAPORE SERVICE FEES	\$ 95,118	\$ 58,129	\$ 2,965	\$ -	\$ -	\$ 2,965
15 HCM LATIN AMERICA	\$ 200,000	\$ 100,000	\$ -	\$ -	\$ -	\$ -
16 THIRD PARTY FUND CAPITAL CALL OBLIGATION	\$ 1,426,987	\$ 7,812,469	\$ 726,000	\$ 2,000,000	\$ 361,163	\$ 3,087,163
17 UTILITIES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
18 INSURANCE	\$ -	\$ 533,940	\$ 10,500	\$ 330,000	\$ 35,876	\$ 376,376
19 INVENTORY PURCHASES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
20 VEHICLE EXPENSES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
21 TRAVEL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
22 ENTERTAINMENT	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
23 REPAIRS & MAINTENANCE	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
24 SUPPLIES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
25 ADVERTISING	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
26 OTHER (ATTACH LIST)	\$ 1,318,700	\$ 3,283,898	\$ 851,659	\$ 1,277,268	\$ 1,066,127	\$ 3,195,054
27 TOTAL OPERATING DISBURSEMENTS	\$ 6,817,251	\$ 20,613,478	\$ 3,032,974	\$ 4,790,407	\$ 3,724,490	\$ 11,547,870
REORGANIZATION EXPENSES						
28 PROFESSIONAL FEES	\$ -	\$ 5,460,546	\$ 1,740,298	\$ 550,170	\$ 3,281,564	\$ 5,572,032
29 U.S. TRUSTEE FEES	\$ -	\$ 68,173	\$ -	\$ 167,025	\$ -	\$ 167,025
30 OTHER (ATTACH LIST)	\$ -	\$ 715,317	\$ -	\$ 150,000	\$ 150,000	\$ 300,000
31 TOTAL REORGANIZATION EXPENSES	\$ -	\$ 6,244,037	\$ 1,740,298	\$ 867,195	\$ 3,431,564	\$ 6,039,057
32 TOTAL DISBURSEMENTS	\$ 6,817,251	\$ 26,857,515	\$ 4,773,272	\$ 5,657,602	\$ 7,156,053	\$ 17,586,927
33 NET CASH FLOW	\$ 6,947,179	\$ 3,031,058	\$ (2,189,431)	\$ (426,195)	\$ 5,077,030	\$ 2,461,404
34 CASH - END OF MONTH	\$ 9,501,409	\$ 12,532,467	\$ 10,343,036	\$ 9,916,841	\$ 14,993,872	\$ 14,993,872

1 All postpetition receipts are included in line 3, Management Fees and Other Related Receipts.

Monthly Operating Report
ACCRUAL BASIS-3B

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

NON-OPERATING RECEIPTS - OTHER

Date	Amount	Type
	10,000,000.00	Sale of Various Jefferies Assets

OPERATING DISBURSMENTS - OTHER

Date	Amount	Vendor
6/1/2020	516	PACER Service Center
6/5/2020	12,014	Flexential Colorado Corp.
6/5/2020	8,427	GRUBHUB for Work
6/5/2020	43,932	Metlife
6/5/2020	11,770	ABM
6/5/2020	100	UPS Supply Chain Solutions
6/5/2020	5,074	Centroid
6/5/2020	300	Action Shred of Texas
6/5/2020	2,190	Canteen Vending Services
6/5/2020	703	Arkadin, Inc.
6/1/2020	29,853	Third Party Consultant
6/1/2020	160,018	Crescent TC Investors LP
6/2/2020	300	eCorp Tax E-CHECK
6/2/2020	336	ATT
6/5/2020	58,260	Carey Olsen
6/8/2020	1,692	ORACLE AMERICA, INC
6/8/2020	103,402	Markit North America Inc.
6/8/2020	16,790	S&P Global Market Intelligence
6/8/2020	7,117	MacroMavens, LLC
6/9/2020	3,574	AT&T
6/10/2020	6,392	TW Telecom Holdings, llc
6/12/2020	35,200	Intex Solutions, Inc.
6/12/2020	20,000	Sage Search Partners
6/12/2020	8,120	Concur Technologies, Inc.
6/12/2020	5,913	Thomson West
6/12/2020	3,000	McLagan Partners
6/12/2020	1,756	Ace Parking Management Inc.
6/12/2020	1,192	CDW Direct
6/12/2020	604	Frank Russell Company
6/12/2020	299	Franke Foodservice Solutions
6/12/2020	225	Four Seasons Landscaping, LLC
6/12/2020	183,912	Siepe Services, LLC
6/12/2020	30	Chase Couriers
6/16/2020	405	East West Bank
6/17/2020	941	ATT
6/17/2020	1,972	Zayo group
6/26/2020	417	Four Seasons Landscaping, LLC
6/26/2020	4,854	Liberty Life Assurance Company of Boston - Group Benefits
6/26/2020	146	Secured Access Systems, LLC
6/26/2020	75	MARKIT WSO CORPORATION
6/26/2020	23,750	Sage Search Partners
6/26/2020	1,394	GRUBHUB for Work
6/26/2020	389	UPS Supply Chain Solutions
6/26/2020	18,042	Siepe Software, LLC
6/22/2020	5,786	ATT
6/22/2020	35,467	Ace Parking Lot 3749
6/23/2020	549	Pitney Bowes
6/24/2020	783	Xerox Corp
6/26/2020	19,720	LinkedIn Corporation
6/26/2020	38,930	Carey Olsen
6/26/2020	142,594	Houlihan Lokey Financial Advisors
6/29/2020	20,681	Strategas Securities LLC
6/30/2020	2,498	Iron Mountain
6/30/2020	2,722	Iron Mountain
6/30/2020	11,000	Third Party Consultant
	1,066,127	

REORGANIZATION EXPENSES - OTHER

Date	Amount	Description
6/1/2020	50,000	Nelms and Associates
6/1/2020	50,000	J.P. Seery & Co. LLC
6/1/2020	50,000	Dubel & Associates, LLC
	150,000	

Monthly Operating Report
ACCRUAL BASIS-4

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MGMT FEE RECEIVABLE AGING ²	March ³	April ³	May ³	June ³
1. 0-30	\$ 1,835,632	\$ 2,583,565	\$1,839,132	\$1,813,292
2. 31-60				\$1,163,000
3. 61-90				
4. 91+				
5. TOTAL MGMT FEE RECEIVABLE	\$ 1,835,632	\$ 2,583,565	\$ 1,839,132	\$2,976,292
6. AMOUNT CONSIDERED UNCOLLECTIBLE				
7. MGMT FEE RECEIVABLE (NET)	\$ 1,835,632	\$ 2,583,565	\$ 1,839,132	\$2,976,292

AGING OF POSTPETITION TAXES AND PAYABLES			MONTH: June 2020		
TAXES PAYABLE	0-30 DAYS	31-60 DAYS	61-90 DAYS	91+ DAYS	TOTAL
1. FEDERAL					\$0
2. STATE					\$0
3. LOCAL					\$0
4. OTHER (ATTACH LIST)					\$0
5. TOTAL TAXES PAYABLE	\$0	\$0	\$0	\$0	\$0
6. ACCOUNTS PAYABLE	\$679,568	\$9,655	\$41,511	\$201,232	\$931,966

STATUS OF POSTPETITION TAXES ¹		MONTH: June 2020		
	BEGINNING TAX LIABILITY	AMOUNT WITHHELD AND/OR ACCRUED	AMOUNT PAID	ENDING TAX LIABILITY
FEDERAL				
1. WITHHOLDING				\$0
2. FICA-EMPLOYEE				\$0
3. FICA-EMPLOYER				\$0
4. UNEMPLOYMENT				\$0
5. INCOME				\$0
6. OTHER (ATTACH LIST)				\$0
7. TOTAL FEDERAL TAXES	\$0	\$0	\$0	\$0
STATE AND LOCAL				
8. WITHHOLDING				\$0
9. SALES				\$0
10. EXCISE				\$0
11. UNEMPLOYMENT				\$0
12. REAL PROPERTY	\$0	\$0	\$0	\$0
13. PERSONAL PROPERTY				\$0
14. OTHER (ATTACH LIST)				\$0
15. TOTAL STATE & LOCAL	\$0	\$0	\$0	\$0
16. TOTAL TAXES	\$0	\$0	\$0	\$0

1 The Debtor funds all state and federal employment taxes to Paylocity, who files all required federal and state related employment reports and withholdings.
2 Aging based on when management fee is due and payable.
3 All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process.

Monthly Operating Report
ACCRUAL BASIS-5

CASE NAME: Highland Capital Management

CASE NUMBER: 19-34054

MONTH: June2020

BANK RECONCILIATIONS	Account #1	Account #2	Account #3	Account #4	Account #5	Account #6	
A. BANK:	East West Bank	East West Bank	Maxim Group	Jefferies LLC	Nexbank	East West Bank	TOTAL
B. ACCOUNT NUMBER:	x4686	x4693	x1885	x0932	x5891	x5848	
C. PURPOSE (TYPE):	Operating	Insurance	Brokerage	Brokerage	CD	Prepaid Card	
1. BALANCE PER BANK STATEMENT ¹	\$ 14,581,744	\$ 174,140	\$ 30	\$ -	\$ 137,929	\$ 100,028	\$ 14,993,871
2. ADD: TOTAL DEPOSITS NOT CREDITED							\$ -
3. SUBTRACT: OUTSTANDING CHECKS							\$ -
4. OTHER RECONCILING ITEMS							\$ -
5. MONTH END BALANCE PER BOOKS	\$ 14,581,744	\$ 174,140	\$ 30	\$ -	\$ 137,929	\$ 100,028	\$ 14,993,871
6. NUMBER OF LAST CHECK WRITTEN	100508	n/a	n/a	n/a	n/a	n/a	

INVESTMENT ACCOUNTS

BANK, ACCOUNT NAME & NUMBER	DATE OF PURCHASE	TYPE OF INSTRUMENT	PURCHASE PRICE	CURRENT VALUE			
7.							
8.							
9.							
10.							
11. TOTAL INVESTMENTS			\$0				\$0

CASH

12. CURRENCY ON HAND	\$0
13. TOTAL CASH - END OF MONTH	\$14,993,871

1 Account x6342 is now closed.

Monthly Operating Report
ACCRUAL BASIS-6

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: June 2020

PAYMENTS TO INSIDERS AND PROFESSIONALS

INSIDERS				
NAME		TYPE OF PAYMENT	AMOUNT PAID	TOTAL PAID POST PETITION
1	Frank Waterhouse	Salary	\$29,167	\$247,917
2	Frank Waterhouse	Expense Reimbursement	\$615	\$4,274
3	Scott Ellington	Salary	\$37,500	\$318,750
4	Scott Ellington	Expense Reimbursement	\$244	\$5,069
5	James Dondero	Salary	\$0	\$129,972
6	James Dondero	Expense Reimbursement ¹	\$0	\$16,918
7	Thomas Surgent	Salary	\$33,333	\$283,333
8	Thomas Surgent	Expense Reimbursement	\$224	\$2,999
9	Trey Parker	Salary	\$0	\$131,250
10	Trey Parker	Expense Reimbursement	\$0	\$6,212
TOTAL PAYMENTS TO INSIDERS			\$101,082	\$1,146,694

¹ The total amount of reimbursements during the reporting month also included \$16,497 for use of the credit card by the Debtor for office related expenses such as subscriptions, vending supplies, marketing and IT equipment/software.

PROFESSIONALS ²						
NAME		DATE OF MONTHLY FEE APPLICATION	AMOUNT APPROVED	AMOUNT PAID	TOTAL PAID TO DATE	TOTAL INCURRED & UNPAID
1.	Kurtzman Carson Consultants LLC		\$44,399	\$44,399	\$258,404	\$82,851
2.	Sidley Austin LLP		\$1,672,840	\$1,672,840	\$3,211,214	\$1,284,149
3.	Young Conaway Stargatt & Taylor LLP				\$281,156	\$0
4.	FTI Consulting, Inc.		734,998.00	734,998.00	\$1,766,617	\$522,912
5.	Pachulski Stang Ziehl & Jones LLP		\$722,244	722,243.95	\$3,710,671	\$1,852,579
6	Hayward & Associates PLLC		\$26,620	\$26,620	\$138,699	\$24,914
7	Development Specialists, Inc.				\$1,864,005	\$0
8	Foley & Lardner LLP		\$80,464	80,463.92	446,956.52	\$157,832
TOTAL PAYMENTS TO PROFESSIONALS				\$3,281,564	\$11,677,721	\$3,925,237

² Does not include payments to ordinary course professionals.

POSTPETITION STATUS OF SECURED NOTES, LEASES PAYABLE AND ADEQUATE PROTECTION PAYMENTS

NAME OF CREDITOR		SCHEDULED MONTHLY PAYMENTS DUE	AMOUNTS PAID DURING MONTH	TOTAL UNPAID POSTPETITION
1.	Crescent TC Investors LP (rent portion only)	130,364	130,364	-
2.				
3.				
4.				
5.				
6.	TOTAL	130,364	\$130,364	\$0

Monthly Operating Report ACCRUAL BASIS-7

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: June 2020

QUESTIONNAIRE

	YES	NO
1. HAVE ANY ASSETS BEEN SOLD OR TRANSFERRED OUTSIDE THE NORMAL COURSE OF BUSINESS THIS REPORTING PERIOD?		x
2. HAVE ANY FUNDS BEEN DISBURSED FROM ANY ACCOUNT OTHER THAN A DEBTOR IN POSSESSION ACCOUNT?		x
3. ARE ANY POSTPETITION RECEIVABLES (ACCOUNTS, NOTES, OR LOANS) DUE FROM RELATED PARTIES?	x	
4. HAVE ANY PAYMENTS BEEN MADE ON PREPETITION LIABILITIES THIS REPORTING PERIOD?	x	
5. HAVE ANY POSTPETITION LOANS BEEN RECEIVED BY THE DEBTOR FROM ANY PARTY?		x
6. ARE ANY POSTPETITION PAYROLL TAXES PAST DUE?		x
7. ARE ANY POSTPETITION STATE OR FEDERAL INCOME TAXES PAST DUE?		x
8. ARE ANY POSTPETITION REAL ESTATE TAXES PAST DUE?		x
9. ARE ANY OTHER POSTPETITION TAXES PAST DUE?		x
10. ARE ANY AMOUNTS OWED TO POSTPETITION CREDITORS DELINQUENT?		x
11. HAVE ANY PREPETITION TAXES BEEN PAID DURING THE REPORTING PERIOD?		x
12. ARE ANY WAGE PAYMENTS PAST DUE?		x

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "YES," PROVIDE A DETAILED EXPLANATION OF EACH ITEM. ATTACH ADDITIONAL SHEETS IF NECESSARY.

3	Debtor generates fee income and other receipts from various related parties in normal course, see cash management motion for further discussion.
4	Payments have been made on prepetition liabilities, as approved in the critical vendor motion.

INSURANCE

	YES	NO
1. ARE WORKER'S COMPENSATION, GENERAL LIABILITY AND OTHER NECESSARY INSURANCE COVERAGES IN EFFECT?	x	
2. ARE ALL PREMIUM PAYMENTS PAID CURRENT?	x	
3. PLEASE ITEMIZE POLICIES BELOW.		

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "NO," OR IF ANY POLICIES HAVE BEEN CANCELLED OR NOT RENEWED DURING THIS REPORTING PERIOD, PROVIDE AN EXPLANATION BELOW. ATTACH ADDITIONAL SHEETS IF NECESSARY.

INSTALLMENT PAYMENTS			
TYPE OF POLICY	CARRIER	PERIOD COVERED	PAYMENT AMOUNT & FREQUENCY

EXHIBIT 10

Monthly Operating Report (July 2020)

**Monthly Operating Report
ACCRUAL BASIS**

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054
JUDGE:	Stacey Jernigan

**UNITED STATES BANKRUPTCY COURT
NORTHERN & EASTERN DISTRICTS OF TEXAS
REGION 6**

MONTHLY OPERATING REPORT

MONTH ENDING: July 2020
MONTH YEAR

IN ACCORDANCE WITH TITLE 28, SECTION 1746, OF THE UNITED STATES CODE, I DECLARE UNDER PENALTY OF PERJURY THAT I HAVE EXAMINED THE FOLLOWING MONTHLY OPERATING REPORT (ACCRUAL BASIS-1 THROUGH ACCRUAL BASIS-7) AND THE ACCOMPANYING ATTACHMENTS AND, TO THE BEST OF MY KNOWLEDGE, THESE DOCUMENTS ARE TRUE, CORRECT, AND COMPLETE. DECLARATION OF THE PREPARER (OTHER THAN RESPONSIBLE PARTY) IS BASED ON ALL INFORMATION OF WHICH PREPARER HAS ANY KNOWLEDGE.

RESPONSIBLE PARTY:

ORIGINAL SIGNATURE OF RESPONSIBLE PARTY

James Segry

PRINTED NAME OF RESPONSIBLE PARTY

Chief Restructuring Officer/ Chief Executive Officer
TITLE

9-1-20

DATE

PREPARER:

ORIGINAL SIGNATURE OF PREPARER

Frank Waterhouse

PRINTED NAME OF PREPARER

Chief Financial Officer

TITLE

8.31.20

DATE



1934054200901000000000001

Monthly Operating Report
ACCRUAL BASIS-1

CASE NAME:	Highland Capital Management, LP
CASE NUMBER:	19-12239-CSS

Comparative Balance Sheet
(in thousands)

	<u>10/15/2019</u>	<u>12/31/2019 ⁽⁶⁾</u>	<u>7/31/2020 ⁽⁶⁾</u>
Assets			
Cash and cash equivalents	2,529	9,501	9,824
Investments, at fair value ⁽³⁾	232,620	232,820	116,841
Equity method investees ⁽³⁾	161,819	183,529	99,748
Management and incentive fee receivable	2,579	1,929	3,714
Fixed assets, net	3,754	3,521	2,977
Due from affiliates ⁽¹⁾	151,901	146,245	148,633
Reserve against notes receivable		(57,963)	(57,963)
Other assets	11,311	11,493	15,332
Total assets	<u>\$ 566,513</u>	<u>\$ 531,076</u>	<u>\$ 339,106</u>
Liabilities and Partners' Capital			
Pre-petition accounts payable ⁽⁴⁾	1,176	1,141	1,051
Post-petition accounts payable ⁽⁴⁾	-	2,042	670
Secured debt:			
Frontier	5,195	5,195	5,195
Jefferies	30,328	30,020	-
Accrued expenses and other liabilities ⁽⁴⁾	59,203	63,275	61,416
Accrued re-organization related fees ⁽⁵⁾	-	5,547	6,561
Claim accrual ⁽²⁾	73,997	73,997	73,997
Partners' capital	396,614	349,857	190,217
Total liabilities and partners' capital	<u>\$ 566,513</u>	<u>\$ 531,076</u>	<u>\$ 339,106</u>

⁽¹⁾ Includes various notes receivable at carrying value, except note due from Hunter Mountain Investment Trust which is fully reserved against (\$58M reserve). Fair value has not been determined with respect to any of the notes.

⁽²⁾ Uncontested portion of Redeemer claim less applicable offsets. Potential for additional liability based on future events. No interest has been accrued beyond petition date.

⁽³⁾ Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

⁽⁴⁾ Note on accruals: expenses recorded in Accounts Payable and Accrued Expenses and Other Liabilities reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices. For balance sheet dates other than the Petition Date, amounts include both pre-petition and post-petition liabilities.

⁽⁵⁾ Beginning December 31st, 2019, Debtor accrued for post-petition re-organization fees based upon an estimate of fees incurred to date.

⁽⁶⁾ All balances at December 31st, 2019 are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, balances for subsequent months have and will fluctuate.

Monthly Operating Report
ACCRUAL BASIS-2

CASE NAME:	Highland Capital Management, LP
CASE NUMBER:	19-12239-CSS

Income Statement¹
(in thousands)

	Date	Filing to Year Ended ⁽⁴⁾	Month ended ⁽⁴⁾	Filing to date ⁽⁴⁾
	10/16/19 - 10/31/19	2019	7/31/2020	
Revenue:				
Management fees	975	4,528	1,405	16,611
Shared services fees	283	1,588	721	6,000
Other income	99	1,582	41	4,624
Total operating revenue	1,357	7,697	2,167	27,234
Operating expenses:				
Compensation and benefits	997	1,498	1,686	12,221
Professional services	256	64	257	1,589
Investment research and consulting	10	266	5	714
Marketing and advertising expense	-	370	30	452
Depreciation expense	82	244	78	786
Bad debt expense reserve	-	8,410	-	8,410
Other operating expenses	201	1,265	376	4,106
Total operating expenses	1,545	12,118	2,432	28,278
Operating income/(loss)	(188)	(4,421)	(265)	(1,044)
Other income/expense:				
Interest income	250	1,230	497	4,630
Interest expense	(107)	(286)	121	(632)
Reserve against notes receivable	-	(57,963)	-	(57,963)
Re-org related expenses ⁽²⁾	-	(5,547)	(1,760)	(23,708)
Independent director fees	-	-	(495)	(1,617)
Other income/expense	32	32	(31)	(132)
Total other income/expense	175	(62,534)	(1,668)	(79,422)
Net realized gains/(losses) on investments	339	618	(763)	(28,562)
Net change in unrealized gains/(losses) of investments ⁽³⁾	2,654	(955)	(3,073)	(33,957)
	2,993	(337)	(3,835)	(62,519)
Net earnings/(losses) from equity method investees ⁽³⁾	(20)	14,918	(3,166)	(69,030)
Net income/(loss)	\$ 2,959	\$ (52,374)	\$ (8,934)	\$ (212,014)

(1) Note on accruals: expenses recorded in the Income Statement reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices.

(2) Debtor funded various retainers totaling \$790k prior to the petition date, which were entirely expensed as of the petition date.

(3) Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

(4) All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, operating results will change as these entries are made.

Monthly Operating Report
ACCRUAL BASIS-3A

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

CASH RECEIPTS AND DISBURSEMENTS	FILING TO YEAR END 2019	QUARTER	QUARTER	JULY
1. CASH - BEGINNING OF MONTH	\$ 2,554,230	\$ 9,501,409	\$ 12,532,467	\$ 14,993,872
RECEIPTS FROM OPERATIONS				
2. OTHER OPERATING RECEIPTS	\$ 1,862,757	\$ 1,379,338	\$ 2,983,221	\$ 758,938
3. MANAGEMENT FEES AND OTHER RELATED RECEIPTS	\$ 3,156,742	\$ 7,555,297	\$ 6,179,437	\$ 1,298,474
COLLECTION OF ACCOUNTS RECEIVABLE				
4. PREPETITION	\$ 3,593,108	\$ 76,569	\$ 3,727	\$ -
5. POSTPETITION ¹	\$ -	\$ -	\$ -	\$ -
6. TOTAL OPERATING RECEIPTS	\$ 8,612,608	\$ 9,011,204	\$ 9,166,385	\$ 2,057,412
NON-OPERATING RECEIPTS				
7. THIRD PARTY FUND ACTUAL/EXPECTED DISTRIBUTIONS	\$ 423,468	\$ 18,992,786	\$ 797,571	\$ -
8. DIVS, PAYDOWNS, MISC FROM INVESTMENT ASSETS	\$ 1,338,069	\$ 477,479	\$ 74,376	\$ 1,772
9. OTHER (ATTACH LIST)	\$ 3,390,286	\$ 1,407,103	\$ 10,010,000	\$ 3,750,000
10. TOTAL NON-OPERATING RECEIPTS	\$ 5,151,822	\$ 20,877,369	\$ 10,881,947	\$ 3,751,772
11. TOTAL RECEIPTS	\$ 13,764,430	\$ 29,888,573	\$ 20,048,331	\$ 5,809,183
12. TOTAL CASH AVAILABLE				\$ 20,803,055
OPERATING DISBURSEMENTS				
13. PAYROLL, BENEFITS, AND TAXES + EXP REIMB	\$ 3,776,446	\$ 8,825,042	\$ 4,886,314	\$ 2,243,199
14. SINGAPORE SERVICE FEES	\$ 95,118	\$ 58,129	\$ 2,965	\$ -
15. HCM LATIN AMERICA	\$ 200,000	\$ 100,000	\$ -	\$ -
16. THIRD PARTY FUND CAPITAL CALL OBLIGATION	\$ 1,426,987	\$ 7,812,469	\$ 3,087,163	\$ 979,631
17. UTILITIES	\$ -	\$ -	\$ -	\$ -
18. INSURANCE	\$ -	\$ 533,940	\$ 376,376	\$ -
19. INVENTORY PURCHASES	\$ -	\$ -	\$ -	\$ -
20. VEHICLE EXPENSES	\$ -	\$ -	\$ -	\$ -
21. TRAVEL	\$ -	\$ -	\$ -	\$ -
22. ENTERTAINMENT	\$ -	\$ -	\$ -	\$ -
23. REPAIRS & MAINTENANCE	\$ -	\$ -	\$ -	\$ -
24. SUPPLIES	\$ -	\$ -	\$ -	\$ -
25. ADVERTISING	\$ -	\$ -	\$ -	\$ -
26. OTHER (ATTACH LIST)	\$ 1,318,700	\$ 3,283,898	\$ 3,195,054	\$ 1,254,939
27. TOTAL OPERATING DISBURSEMENTS	\$ 6,817,251	\$ 20,613,478	\$ 11,547,870	\$ 4,477,770
REORGANIZATION EXPENSES				
28. PROFESSIONAL FEES	\$ -	\$ 5,460,546	\$ 5,572,032	\$ 5,959,765
29. U.S. TRUSTEE FEES	\$ -	\$ 68,173	\$ 167,025	\$ 505
30. OTHER (ATTACH LIST)	\$ -	\$ 715,317	\$ 300,000	\$ 541,289
31. TOTAL REORGANIZATION EXPENSES	\$ -	\$ 6,244,037	\$ 6,039,057	\$ 6,501,559
32. TOTAL DISBURSEMENTS	\$ 6,817,251	\$ 26,857,515	\$ 17,586,927	\$ 10,979,329
33. NET CASH FLOW	\$ 6,947,179	\$ 3,031,058	\$ 2,461,404	\$ (5,170,145)
34. CASH - END OF MONTH	\$ 9,501,409	\$ 12,532,467	\$ 14,993,872	\$ 9,823,726

¹ All postpetition receipts are included in line 3, Management Fees and Other Related Receipts.

Monthly Operating Report
ACCRUAL BASIS-3B

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

NON-OPERATING RECEIPTS - OTHER

Date	Amount	Type
7/29/2020	3,750,000.00	Highland Multi Strategy Credit Fund post-petition loan receipt

OPERATING DISBURSMENTS - OTHER

Date	Amount	Vendor
7/1/2020	170,277	Crescent TC Investors LP
7/2/2020	18,042	Siepe Software, LLC
7/2/2020	2,977	Open Text Inc.
7/2/2020	2,376	Nitro Software, Inc.
7/2/2020	2,216	Options Price Reporting Authority
7/2/2020	2,025	Crescent Research
7/2/2020	863	Verity Group
7/2/2020	600	Action Shred of Texas
7/2/2020	354	PCA-VALET, INC
7/2/2020	307	UPS Supply Chain Solutions
7/2/2020	192	Canteen Vending Services
7/2/2020	30	CHASE COURIERS, INC
7/2/2020	18,284	Ace Parking Management Inc.
7/1/2020	31,641	Third Party Consultant
7/1/2020	18,236	Bloomberg Finance LP
7/2/2020	7,000	EPC Group
7/2/2020	23,384	John Hancock U.S.A.
7/2/2020	160,139	Siepe Services LLC
7/3/2020	336	ATT
7/3/2020	532	DirecTV
7/10/2020	70,400	Intex Solutions, Inc.
7/10/2020	104	UPS Supply Chain Solutions
7/10/2020	5,885	ABM
7/10/2020	1,248	ProStar Services, Inc
7/10/2020	915	Canteen Vending Services
7/10/2020	9,592	Hedgeye Risk Mgmt, LLC
7/10/2020	11,888	Flexential Colorado Corp.
7/7/2020	20,658	CDW Direct LLC
7/10/2020	2,787	,Level 3 Communic
7/10/2020	3,574	ATT
7/10/2020	8,304	Third Party Consultant
7/10/2020	23,920	Lantana Communications Corporation
7/10/2020	25,690	HE Asante
7/10/2020	50	Arizona Department of Revenue
7/10/2020	50	Arizona Department of Revenue
7/10/2020	50	Arizona Department of Revenue
7/10/2020	651	Department of Treasury- Internal Revenue Service
7/13/2020	35,416	Trend Macrolitics LLC
7/14/2020	500	Pitney Bowes- Purchase Power
7/16/2020	500	Pitney Bowes- Purchase Power
7/17/2020	695	CDW Direct
7/17/2020	8,960	GRUBHUB for Work
7/14/2020	215,000	State Comptroller of Texas
7/17/2020	941	AT&t
7/17/2020	2,082	Zayo
7/17/2020	14,964	PWC Singapore
7/25/2020	320	PACER Service Center
7/21/2020	6,060	ATT
7/22/2020	441	ATT
7/22/2020	786	XEROX CORP.
7/24/2020	22,390	Compass Group USA dba Canteen
7/31/2020	22,500	SNI Companies
7/31/2020	1,043	DTCC ITP LLC
7/31/2020	1,692	Oracle America, Inc.
7/31/2020	4,308	Third Party Consultant
7/31/2020	6,371	Level 3 Communic
7/31/2020	8,700	Intralinks Inc
7/31/2020	9,535	Hedgeye Risk Mgmt, LLC
7/31/2020	12,643	Third Party Consultant
7/31/2020	18,042	Siepe Software LLC
7/31/2020	26,543	REFINITIV US LLC
7/31/2020	31,694	Willis Towers Watson Insurance Svcs
7/31/2020	157,238	Siepe Services LLC
	1,254,939	

REORGANIZATION EXPENSES - OTHER

Date	Amount	Description
7/1/2020	35,591	J.P. Seery & Co. LLC
7/1/2020	35,591	Nelms and Associates
7/1/2020	35,591	Dubel & Associates, L.L.C.
7/17/2020	434,516	J.P. Seery & Co. LLC
	541,289	

Monthly Operating Report
ACCRUAL BASIS-4

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MGMT FEE RECEIVABLE AGING ²		April ³	May ³	June ³	July ³
1.	0-30	\$ 2,583,565	\$1,839,132	\$1,813,292	\$2,163,766
2.	31-60			\$1,163,000	\$1,550,667
3.	61-90				
4.	91+				
5.	TOTAL MGMT FEE RECEIVABLE	\$ 2,583,565	\$ 1,839,132	\$ 2,976,292	\$3,714,432
6.	AMOUNT CONSIDERED UNCOLLECTIBLE				
7.	MGMT FEE RECEIVABLE (NET)	\$ 2,583,565	\$ 1,839,132	\$ 2,976,292	\$3,714,432

AGING OF POSTPETITION TAXES AND PAYABLES			MONTH: July 2020		
TAXES PAYABLE	0-30 DAYS	31-60 DAYS	61-90 DAYS	91+ DAYS	TOTAL
1. FEDERAL					\$0
2. STATE					\$0
3. LOCAL					\$0
4. OTHER (ATTACH LIST)					\$0
5. TOTAL TAXES PAYABLE	\$0	\$0	\$0	\$0	\$0
6. ACCOUNTS PAYABLE	\$810,035	(\$335,873)	\$2,845	\$192,607	\$669,614

STATUS OF POSTPETITION TAXES ¹		MONTH: July 2020		
	BEGINNING TAX LIABILITY	AMOUNT WITHHELD AND/OR ACCRUED	AMOUNT PAID	ENDING TAX LIABILITY
FEDERAL				
1. WITHHOLDING				\$0
2. FICA-EMPLOYEE				\$0
3. FICA-EMPLOYER				\$0
4. UNEMPLOYMENT				\$0
5. INCOME				\$0
6. OTHER (ATTACH LIST)				\$0
7. TOTAL FEDERAL TAXES	\$0	\$0	\$0	\$0
STATE AND LOCAL				
8. WITHHOLDING				\$0
9. SALES				\$0
10. EXCISE				\$0
11. UNEMPLOYMENT				\$0
12. REAL PROPERTY	\$0	\$0	\$0	\$0
13. PERSONAL PROPERTY				\$0
14. OTHER (ATTACH LIST)				\$0
15. TOTAL STATE & LOCAL	\$0	\$0	\$0	\$0
16. TOTAL TAXES	\$0	\$0	\$0	\$0

- 1 The Debtor funds all state and federal employment taxes to Paylocity, who files all required federal and state related employment reports and withholdings.
- 2 Aging based on when management fee is due and payable.
- 3 All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process.

Monthly Operating Report
ACCRUAL BASIS-5

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: July 2020

BANK RECONCILIATIONS	Account #1	Account #2	Account #3	Account #4	Account #5	Account #6	
A. BANK:	East West Bank	East West Bank	Maxim Group	Jefferies LLC	Nexbank	East West Bank	
B. ACCOUNT NUMBER:	x4686	x4693	x1885	x0932	x5891	x5848	TOTAL
C. PURPOSE (TYPE):	Operating	Insurance	Brokerage	Brokerage	CD	Prepaid Card	
1. BALANCE PER BANK STATEMENT ¹	\$ 9,235,042	\$ 351,010	\$ 30	\$ -	\$ 137,929	\$ 100,036	\$ 9,824,046
2. ADD: TOTAL DEPOSITS NOT CREDITED							\$ -
3. SUBTRACT: OUTSTANDING CHECKS	\$ 320						\$ 320
4. OTHER RECONCILING ITEMS							\$ -
5. MONTH END BALANCE PER BOOKS	\$ 9,234,721	\$ 351,010	\$ 30	\$ -	\$ 137,929	\$ 100,036	\$ 9,823,726
6. NUMBER OF LAST CHECK WRITTEN	100508	n/a	n/a	n/a	n/a	n/a	

INVESTMENT ACCOUNTS	DATE OF PURCHASE	TYPE OF INSTRUMENT	PURCHASE PRICE	CURRENT VALUE
BANK, ACCOUNT NAME & NUMBER				
7.				
8.				
9.				
10.				
11. TOTAL INVESTMENTS			\$0	\$0

CASH	
12. CURRENCY ON HAND	\$0
13. TOTAL CASH - END OF MONTH	\$9,823,726

¹ Account x6342 is now closed.

Monthly Operating Report
ACCRUAL BASIS-6

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: July 2020

PAYMENTS TO INSIDERS AND PROFESSIONALS

INSIDERS				
	NAME	TYPE OF PAYMENT	AMOUNT PAID	TOTAL PAID POST PETITION
1	Frank Waterhouse	Salary	\$45,833	\$293,750
2	Frank Waterhouse	Expense Reimbursement	\$380	\$4,654
3	Scott Ellington	Salary	\$37,500	\$356,250
4	Scott Ellington	Expense Reimbursement	\$180	\$5,249
5	James Dondero	Salary	\$0	\$129,972
6	James Dondero	Expense Reimbursement ¹	\$0	\$16,918
7	Thomas Surgent	Salary	\$33,333	\$316,667
8	Thomas Surgent	Expense Reimbursement	\$543	\$3,542
9	Trey Parker	Salary	\$0	\$131,250
10	Trey Parker	Expense Reimbursement	\$0	\$6,212
TOTAL PAYMENTS TO INSIDERS			\$117,769	\$1,264,463

¹ The total amount of reimbursements during the reporting month also included \$9,749 for use of the credit card by the Debtor for office related expenses such as marketing, vending supplies, IT services and research.

PROFESSIONALS ²						
NAME		DATE OF MONTHLY FEE APPLICATION	AMOUNT APPROVED	AMOUNT PAID	TOTAL PAID TO DATE	TOTAL INCURRED & UNPAID
1.	Kurtzman Carson Consultants LLC		\$192,432	\$192,432	\$450,836	\$39,720
2.	Sidley Austin LLP		\$1,282,010	\$1,282,010	\$4,493,224	\$937,766
3.	Young Conaway Stargatt & Taylor LLP				\$281,156	\$0
4.	FTI Consulting, Inc.		989,136.65	989,136.65	2,755,753.64	\$933,584
5.	Pachulski Stang Ziehl & Jones LLP		2,782,984.84	2,782,984.84	6,493,655.63	\$1,205,399
6	Hayward & Associates PLLC		\$56,978	\$56,978	\$195,676	\$41,158
7	Development Specialists, Inc.		491,437.83	491,437.83	2,355,442.73	\$249,391
8	Foley & Lardner LLP		48,829.40	48,829.40	495,785.92	\$130,589
9	Mercer (US) Inc.		115,956.33	115,956.33	115,956.33	\$0
TOTAL PAYMENTS TO PROFESSIONALS				\$5,959,765	\$17,637,486	\$3,537,606

² Does not include payments to ordinary course professionals.

POSTPETITION STATUS OF SECURED NOTES, LEASES PAYABLE AND ADEQUATE PROTECTION PAYMENTS

	NAME OF CREDITOR	SCHEDULED MONTHLY PAYMENTS DUE	AMOUNTS PAID DURING MONTH	TOTAL UNPAID POSTPETITION
1.	Crescent TC Investors LP (rent portion only)	130,364	130,364	-
2.				
3.				
4.				
5.				
6.	TOTAL	130,364	\$130,364	\$0

Monthly Operating Report
ACCRUAL BASIS-7

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: July 2020

QUESTIONNAIRE

	YES	NO
1. HAVE ANY ASSETS BEEN SOLD OR TRANSFERRED OUTSIDE THE NORMAL COURSE OF BUSINESS THIS REPORTING PERIOD?		x
2. HAVE ANY FUNDS BEEN DISBURSED FROM ANY ACCOUNT OTHER THAN A DEBTOR IN POSSESSION ACCOUNT?		x
3. ARE ANY POSTPETITION RECEIVABLES (ACCOUNTS, NOTES, OR LOANS) DUE FROM RELATED PARTIES?	x	
4. HAVE ANY PAYMENTS BEEN MADE ON PREPETITION LIABILITIES THIS REPORTING PERIOD?		x
5. HAVE ANY POSTPETITION LOANS BEEN RECEIVED BY THE DEBTOR FROM ANY PARTY?		x
6. ARE ANY POSTPETITION PAYROLL TAXES PAST DUE?		x
7. ARE ANY POSTPETITION STATE OR FEDERAL INCOME TAXES PAST DUE?		x
8. ARE ANY POSTPETITION REAL ESTATE TAXES PAST DUE?		x
9. ARE ANY OTHER POSTPETITION TAXES PAST DUE?		x
10. ARE ANY AMOUNTS OWED TO POSTPETITION CREDITORS DELINQUENT?		x
11. HAVE ANY PREPETITION TAXES BEEN PAID DURING THE REPORTING PERIOD?		x
12. ARE ANY WAGE PAYMENTS PAST DUE?		x

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "YES," PROVIDE A DETAILED EXPLANATION OF EACH ITEM. ATTACH ADDITIONAL SHEETS IF NECESSARY.

3 Debtor generates fee income and other receipts from various related parties in normal course, see cash management motion for further discussion.

INSURANCE

	YES	NO
1. ARE WORKER'S COMPENSATION, GENERAL LIABILITY AND OTHER NECESSARY INSURANCE COVERAGES IN EFFECT?	x	
2. ARE ALL PREMIUM PAYMENTS PAID CURRENT?	x	
3. PLEASE ITEMIZE POLICIES BELOW.		

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "NO," OR IF ANY POLICIES HAVE BEEN CANCELLED OR NOT RENEWED DURING THIS REPORTING PERIOD, PROVIDE AN EXPLANATION BELOW. ATTACH ADDITIONAL SHEETS IF NECESSARY.

INSTALLMENT PAYMENTS			
TYPE OF POLICY	CARRIER	PERIOD COVERED	PAYMENT AMOUNT & FREQUENCY

EXHIBIT 11

Monthly Operating Report (August 2020)

**Monthly Operating Report
ACCRUAL BASIS**

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054
JUDGE:	Stacey Jernigan

**UNITED STATES BANKRUPTCY COURT
NORTHERN & EASTERN DISTRICTS OF TEXAS
REGION 6**

MONTHLY OPERATING REPORT

MONTH ENDING: August 2020
MONTH YEAR


IN ACCORDANCE WITH TITLE 28, SECTION 1746, OF THE UNITED STATES CODE, I DECLARE UNDER PENALTY OF PERJURY THAT I HAVE EXAMINED THE FOLLOWING MONTHLY OPERATING REPORT (ACCRUAL BASIS-1 THROUGH ACCRUAL BASIS-7) AND THE ACCOMPANYING ATTACHMENTS AND, TO THE BEST OF MY KNOWLEDGE, THESE DOCUMENTS ARE TRUE, CORRECT, AND COMPLETE. DECLARATION OF THE PREPARER (OTHER THAN RESPONSIBLE PARTY) IS BASED ON ALL INFORMATION OF WHICH PREPARER HAS ANY KNOWLEDGE.

RESPONSIBLE PARTY:


ORIGINAL SIGNATURE OF RESPONSIBLE PARTY
James Seery
PRINTED NAME OF RESPONSIBLE PARTY

Chief Restructuring Officer/ Chief Executive Officer
TITLE
9-30-20
DATE

PREPARER:


ORIGINAL SIGNATURE OF PREPARER
Frank Waterhouse
PRINTED NAME OF PREPARER

Chief Financial Officer
TITLE
9.30.20
DATE



193405420093000000000017

Monthly Operating Report
ACCRUAL BASIS-1

CASE NAME:	Highland Capital Management, LP
CASE NUMBER:	19-12239-CSS

Comparative Balance Sheet
(in thousands)

	<u>10/15/2019</u>	<u>12/31/2019 ⁽⁶⁾</u>	<u>8/31/2020 ⁽⁶⁾</u>
Assets			
Cash and cash equivalents	2,529	9,501	10,026
Investments, at fair value ⁽³⁾	232,620	232,820	106,939
Equity method investees ⁽³⁾	161,819	183,529	100,877
Management and incentive fee receivable	2,579	1,929	2,541
Fixed assets, net	3,754	3,521	2,899
Due from affiliates ⁽¹⁾	151,901	146,276	152,160
Reserve against notes receivable		(57,963)	(59,016)
Other assets	11,311	11,463	12,369
Total assets	<u>\$ 566,513</u>	<u>\$ 531,076</u>	<u>\$ 328,795</u>
Liabilities and Partners' Capital			
Pre-petition accounts payable ⁽⁴⁾	1,176	1,141	1,051
Post-petition accounts payable ⁽⁴⁾	-	2,042	1,114
Secured debt:			
Frontier	5,195	5,195	5,195
Jefferies	30,328	30,020	-
Accrued expenses and other liabilities ⁽⁴⁾	59,203	63,275	58,096
Accrued re-organization related fees ⁽⁵⁾	-	5,547	5,869
Claim accrual ⁽²⁾	73,997	73,997	73,997
Partners' capital	396,614	349,857	183,472
Total liabilities and partners' capital	<u>\$ 566,513</u>	<u>\$ 531,076</u>	<u>\$ 328,795</u>

⁽¹⁾ Includes various notes receivable at carrying value, except note due from Hunter Mountain Investment Trust which is fully reserved against (\$59M reserve). Fair value has not been determined with respect to any of the notes.

⁽²⁾ Uncontested portion of Redeemer claim less applicable offsets. Potential for additional liability based on future events. No interest has been accrued beyond petition date. No additional accruals will be made on settlement claims until further approval by the court.

⁽³⁾ Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

⁽⁴⁾ Note on accruals: expenses recorded in Accounts Payable and Accrued Expenses and Other Liabilities reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices. For balance sheet dates other than the Petition Date, amounts include both pre-petition and post-petition liabilities.

⁽⁵⁾ Beginning December 31st, 2019, Debtor accrued for post-petition re-organization fees based upon an estimate of fees incurred to date.

⁽⁶⁾ All balances at December 31st, 2019 are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, balances for subsequent months have and will fluctuate.

Monthly Operating Report
ACCRUAL BASIS-2

CASE NAME:	Highland Capital Management, LP	
CASE NUMBER:	19-12239-CSS	

Income Statement¹
(in thousands)

	Date	Filing to Year Ended ⁽⁴⁾	Month ended ⁽⁴⁾	Filing to date ⁽⁴⁾
	10/16/19 - 10/31/19	2019	8/31/2020	
Revenue:				
Management fees	975	4,528	887	17,498
Shared services fees	283	1,588	603	6,603
Other income	99	1,582	34	4,658
Total operating revenue	1,357	7,697	1,524	28,758
Operating expenses:				
Compensation and benefits	997	1,498	1,890	14,111
Professional services	256	64	384	1,973
Investment research and consulting	10	266	4	718
Marketing and advertising expense	-	370	33	485
Depreciation expense	82	244	77	863
Bad debt expense reserve	-	8,410	1,053	9,462
Other operating expenses	201	1,265	519	4,248
Total operating expenses	1,545	12,118	3,960	31,861
Operating income/(loss)	(188)	(4,421)	(2,436)	(3,103)
Other income/expense:				
Interest income	250	1,230	498	5,128
Interest expense	(107)	(286)	(22)	(654)
Reserve against notes receivable	-	(57,963)	-	(57,963)
Re-org related expenses ⁽²⁾	-	(5,547)	(1,276)	(24,983)
Independent director fees	-	-	(330)	(1,947)
Other income/expense	32	32	(6)	(138)
Total other income/expense	175	(62,534)	(1,135)	(80,557)
Net realized gains/(losses) on investments	339	618	(310)	(28,872)
Net change in unrealized gains/(losses) of investments ⁽³⁾	2,654	(955)	(4,369)	(38,326)
	2,993	(337)	(4,679)	(67,198)
Net earnings/(losses) from equity method investees ⁽³⁾	(20)	14,918	1,129	(67,901)
Net income/(loss)	\$ 2,959	\$ (52,374)	\$ (7,121)	\$ (218,759)

(1) Note on accruals: expenses recorded in the Income Statement reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices.

(2) Debtor funded various retainers totaling \$790k prior to the petition date, which were entirely expensed as of the petition date.

(3) Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

(4) All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, operating results will change as these entries are made.

Monthly Operating Report
ACCRUAL BASIS-3A

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

CASH RECEIPTS AND DISBURSEMENTS	FILING TO YEAR END 2019	QUARTER	QUARTER	AUGUST
1. CASH - BEGINNING OF MONTH	\$ 2,554,230	\$ 9,501,409	\$ 12,532,467	\$ 9,823,726
RECEIPTS FROM OPERATIONS				
2. OTHER OPERATING RECEIPTS	\$ 1,862,757	\$ 1,379,338	\$ 2,983,221	\$ 784,607
3. MANAGEMENT FEES AND OTHER RELATED RECEIPTS	\$ 3,156,742	\$ 7,555,297	\$ 6,179,437	\$ 2,762,104
COLLECTION OF ACCOUNTS RECEIVABLE				
4. PREPETITION	\$ 3,593,108	\$ 76,569	\$ 3,727	\$ -
5. POSTPETITION ¹	\$ -	\$ -	\$ -	\$ -
6. TOTAL OPERATING RECEIPTS	\$ 8,612,608	\$ 9,011,204	\$ 9,166,385	\$ 3,546,711
NON-OPERATING RECEIPTS				
7. THIRD PARTY FUND ACTUAL/EXPECTED DISTRIBUTIONS	\$ 423,468	\$ 18,992,786	\$ 797,571	\$ 220,898
8. DIVS, PAYDOWNS, MISC FROM INVESTMENT ASSETS	\$ 1,338,069	\$ 477,479	\$ 74,376	\$ 1,770
9. OTHER (ATTACH LIST)	\$ 3,390,286	\$ 1,407,103	\$ 10,010,000	\$ 5,000,000
10. TOTAL NON-OPERATING RECEIPTS	\$ 5,151,822	\$ 20,877,369	\$ 10,881,947	\$ 5,222,668
11. TOTAL RECEIPTS	\$ 13,764,430	\$ 29,888,573	\$ 20,048,331	\$ 8,769,379
12. TOTAL CASH AVAILABLE				\$ 18,593,105
OPERATING DISBURSEMENTS				
13. PAYROLL, BENEFITS, AND TAXES + EXP REIMB	\$ 3,776,446	\$ 8,825,042	\$ 4,886,314	\$ 5,135,559
14. SINGAPORE SERVICE FEES	\$ 95,118	\$ 58,129	\$ 2,965	\$ -
15. HCM LATIN AMERICA	\$ 200,000	\$ 100,000	\$ -	\$ -
16. THIRD PARTY FUND CAPITAL CALL OBLIGATION	\$ 1,426,987	\$ 7,812,469	\$ 3,087,163	\$ -
17. UTILITIES	\$ -	\$ -	\$ -	\$ -
18. INSURANCE	\$ -	\$ 533,940	\$ 376,376	\$ 163,400
19. INVENTORY PURCHASES	\$ -	\$ -	\$ -	\$ -
20. VEHICLE EXPENSES	\$ -	\$ -	\$ -	\$ -
21. TRAVEL	\$ -	\$ -	\$ -	\$ -
22. ENTERTAINMENT	\$ -	\$ -	\$ -	\$ -
23. REPAIRS & MAINTENANCE	\$ -	\$ -	\$ -	\$ -
24. SUPPLIES	\$ -	\$ -	\$ -	\$ -
25. ADVERTISING	\$ -	\$ -	\$ -	\$ -
26. OTHER (ATTACH LIST)	\$ 1,318,700	\$ 3,283,898	\$ 3,195,054	\$ 1,091,762
27. TOTAL OPERATING DISBURSEMENTS	\$ 6,817,251	\$ 20,613,478	\$ 11,547,870	\$ 6,390,721
REORGANIZATION EXPENSES				
28. PROFESSIONAL FEES	\$ -	\$ 5,460,546	\$ 5,572,032	\$ 1,689,437
29. U.S. TRUSTEE FEES	\$ -	\$ 68,173	\$ 167,025	\$ 277,420
30. OTHER (ATTACH LIST)	\$ -	\$ 715,317	\$ 300,000	\$ 210,000
31. TOTAL REORGANIZATION EXPENSES	\$ -	\$ 6,244,037	\$ 6,039,057	\$ 2,176,857
32. TOTAL DISBURSEMENTS	\$ 6,817,251	\$ 26,857,515	\$ 17,586,927	\$ 8,567,577
33. NET CASH FLOW	\$ 6,947,179	\$ 3,031,058	\$ 2,461,404	\$ 201,802
34. CASH - END OF MONTH	\$ 9,501,409	\$ 12,532,467	\$ 14,993,872	\$ 10,025,528

¹ All postpetition receipts are included in line 3, Management Fees and Other Related Receipts.

Monthly Operating Report
ACCRUAL BASIS-3B

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

NON-OPERATING RECEIPTS - OTHER

Date	Amount	Type
	5,000,000.00	Sale of Various Jefferies Assets

OPERATING DISBURSMENTS - OTHER

Date	Amount	Vendor
8/7/2020	165,619.98	Hunton Andrews Kurth, LLP
8/7/2020	3,573.58	AT&T
8/7/2020	31,709.37	CDW Direct
8/7/2020	120.60	Iron Mountain Records Management
8/7/2020	47,647.36	Houlihan Lokey
8/7/2020	17,070.36	AT&T
8/7/2020	3,176.25	Centroid
8/7/2020	1,322.32	Canteen Vending Services
8/7/2020	1,693.03	NetWrix Corporation
8/7/2020	5,884.76	ABM
8/7/2020	10,468.52	Bloomberg Finance LP
8/7/2020	225.16	Four Seasons Landscaping, LLC
8/7/2020	94.07	Chase Couriers, Inc
8/7/2020	350.00	Crescent Research
8/7/2020	11,887.73	Flexential Colorado Corp.
8/7/2020	2,075.52	NYSE Market, Inc
8/5/2020	2,724.99	Iron Mountain Records Management
8/4/2020	31,747.76	Third party Consultant
8/3/2020	7,069.59	MacroMavens, LLC
8/3/2020	2,531.35	Siepe Services, LLC
8/3/2020	158,601.09	Crescent TC Investors LP
8/3/2020	25,000.00	InsiderScore, LLC
8/4/2020	335.80	ATT Payment
8/12/2020	92,000.00	American Arbitration Association
8/14/2020	4,918.34	Liberty Life Assurance Company of Boston - Group Benefits
8/14/2020	660.00	Centroid
8/14/2020	2,878.44	Grubhub for Work
8/14/2020	1,535.27	Canteen Vending Services
8/14/2020	2,668.57	Iron Mountain Records Management
8/14/2020	567.13	Arkadin, Inc.
8/14/2020	3,818.42	ICE Data Pricing & Reference Data, LLC
8/14/2020	8,119.62	Concur Technologies, Inc.
8/14/2020	1,224.93	Oak Cliff Office Products
8/14/2020	772.33	UPS Supply Chain Solutions
8/14/2020	4,932.20	Thomson West
8/14/2020	718.35	ProStar Services, Inc
8/14/2020	810.84	DTCC ITP LLC
8/14/2020	1,242.42	Options Price Reporting Authority
8/14/2020	342.18	Verity Group
8/14/2020	18,765.08	Ace Parking Management Inc.
8/14/2020	3,031.00	Daltex Janitorial Services, LLC
8/14/2020	690.00	Action Shred of Texas
8/14/2020	265.48	American Solutions for Business
8/21/2020	314,488.40	Bloomberg Finance LP
8/21/2020	35,200.00	Intex Solutions, Inc.
8/21/2020	137.50	AT&T
8/21/2020	339.54	UPS Small Package
8/21/2020	390.78	Four Seasons Landscaping, LLC
8/21/2020	516.57	Laser Works, Inc dba Verity Group
8/21/2020	528.00	Ace Parking Lot 3749
8/21/2020	978.62	CDW Direct LLC
8/21/2020	1,028.73	Iron Mountain
8/21/2020	1,381.40	Compass Group USA dba Canteen
8/21/2020	1,388.97	DTCC ITP LLC
8/21/2020	1,969.46	Standard Insurance Company
8/21/2020	2,373.40	Prostar Services Inc.
8/21/2020	2,845.06	Dawn US Holdings LLC
8/21/2020	3,192.11	Oak Cliff Office Supply & Printing
8/21/2020	3,889.87	Third party Consultant
8/21/2020	3,963.84	GrubHub for Work
8/21/2020	4,894.41	Liberty Life Assurance Co of Boston
8/21/2020	7,120.89	NYSE Market (DE), Inc.
8/19/2020	325.00	USI Southwest, Inc.
8/18/2020	2,082.70	Zayo group
8/18/2020	332.02	East West Bank
8/17/2020	870.41	ATT
8/25/2020	362.91	Xerox Corporation
8/25/2020	9,005.07	Visa Payment
8/31/2020	11,000.00	Third party Consultant
8/31/2020	266.65	Directv, LLC
	1,091,762	

REORGANIZATION EXPENSES - OTHER

Date	Amount	Description
8/3/2020	30,000	Nelms and Associates
8/3/2020	150,000	J.P. Seery & Co. LLC
8/3/2020	30,000	Dubel & Associates, L.L.C.
	210,000	

Monthly Operating Report
ACCRUAL BASIS-4

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MGMT FEE RECEIVABLE AGING ²		May ³	June ³	July ³	August ³
1.	0-30	\$ 1,839,132	\$1,813,292	\$2,428,715	\$998,818
2.	31-60		\$1,163,000	\$1,285,718	\$770,000
3.	61-90				
4.	91+				\$772,384
5.	TOTAL MGMT FEE RECEIVABLE	\$ 1,839,132	\$ 2,976,292	\$ 3,714,432	\$2,541,202
6.	AMOUNT CONSIDERED UNCOLLECTIBLE				
7.	MGMT FEE RECEIVABLE (NET)	\$ 1,839,132	\$ 2,976,292	\$ 3,714,432	\$2,541,202

AGING OF POSTPETITION TAXES AND PAYABLES			MONTH: August 2020		
TAXES PAYABLE	0-30 DAYS	31-60 DAYS	61-90 DAYS	91+ DAYS	TOTAL
1. FEDERAL					\$0
2. STATE					\$0
3. LOCAL					\$0
4. OTHER (ATTACH LIST)					\$0
5. TOTAL TAXES PAYABLE	\$0	\$0	\$0	\$0	\$0
6. ACCOUNTS PAYABLE	\$930,656	\$12,140	\$26,596	\$144,936	\$1,114,328

STATUS OF POSTPETITION TAXES ¹		MONTH: August 2020		
	BEGINNING TAX LIABILITY	AMOUNT WITHHELD AND/OR ACCRUED	AMOUNT PAID	ENDING TAX LIABILITY
FEDERAL				
1. WITHHOLDING				\$0
2. FICA-EMPLOYEE				\$0
3. FICA-EMPLOYER				\$0
4. UNEMPLOYMENT				\$0
5. INCOME				\$0
6. OTHER (ATTACH LIST)				\$0
7. TOTAL FEDERAL TAXES	\$0	\$0	\$0	\$0
STATE AND LOCAL				
8. WITHHOLDING				\$0
9. SALES				\$0
10. EXCISE				\$0
11. UNEMPLOYMENT				\$0
12. REAL PROPERTY	\$0	\$0	\$0	\$0
13. PERSONAL PROPERTY				\$0
14. OTHER (ATTACH LIST)				\$0
15. TOTAL STATE & LOCAL	\$0	\$0	\$0	\$0
16. TOTAL TAXES	\$0	\$0	\$0	\$0

- 1 The Debtor funds all state and federal employment taxes to Paylocity, who files all required federal and state related employment reports and withholdings.
- 2 Aging based on when management fee is due and payable.
- 3 All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process.

Monthly Operating Report
ACCRUAL BASIS-5

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: August 2020

BANK RECONCILIATIONS		Account #1	Account #2	Account #3	Account #4	Account #5	Account #6	TOTAL
A. BANK:	B. ACCOUNT NUMBER:	East West Bank	East West Bank	Maxim Group	Jefferies LLC	Nexbank	East West Bank	
		x4686	x4693	x1885	x0932	x5891	x5848	
C. PURPOSE (TYPE):		Operating	Insurance	Brokerage	Brokerage	CD	Prepaid Card	
1. BALANCE PER BANK STATEMENT ¹		\$ 9,718,445	\$ 69,399	\$ 30	\$ -	\$ 137,929	\$ 100,044	\$ 10,025,848
2. ADD: TOTAL DEPOSITS NOT CREDITED								\$ -
3. SUBTRACT: OUTSTANDING CHECKS		\$ 320						\$ 320
4. OTHER RECONCILING ITEMS								\$ -
5. MONTH END BALANCE PER BOOKS		\$ 9,718,125	\$ 69,399	\$ 30	\$ -	\$ 137,929	\$ 100,044	\$ 10,025,527
6. NUMBER OF LAST CHECK WRITTEN		100510	n/a	n/a	n/a	n/a	n/a	

INVESTMENT ACCOUNTS		DATE OF PURCHASE	TYPE OF INSTRUMENT	PURCHASE PRICE	CURRENT VALUE		
BANK, ACCOUNT NAME & NUMBER							
7.							
8.							
9.							
10.							
11. TOTAL INVESTMENTS				\$0			\$0

CASH		
12. CURRENCY ON HAND		\$0
13. TOTAL CASH - END OF MONTH		\$10,025,527

¹ Account x6342 is now closed.

Monthly Operating Report
ACCRUAL BASIS-6

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: August 2020

PAYMENTS TO INSIDERS AND PROFESSIONALS

INSIDERS				
	NAME	TYPE OF PAYMENT	AMOUNT PAID	TOTAL PAID POST PETITION
1	Frank Waterhouse	Salary	\$33,333	\$327,083
2	Frank Waterhouse	Expense Reimbursement	\$457	\$5,111
3	Scott Ellington	Salary	\$37,500	\$393,750
4	Scott Ellington	Expense Reimbursement	\$594	\$5,843
5	James Dondero	Salary	\$0	\$129,972
6	James Dondero	Expense Reimbursement ¹	\$0	\$16,918
7	Thomas Surgent	Salary	\$33,333	\$350,000
8	Thomas Surgent	Expense Reimbursement	\$224	\$3,766
9	Trey Parker	Salary	\$0	\$131,250
10	Trey Parker	Expense Reimbursement	\$0	\$6,212
TOTAL PAYMENTS TO INSIDERS			\$105,441	\$1,369,904

¹ The total amount of reimbursements during the reporting month also included \$6,981 for use of the credit card by the Debtor for office related expenses such as subscriptions, vending supplies, and IT equipment/software.

PROFESSIONALS ²						
NAME		DATE OF MONTHLY FEE APPLICATION	AMOUNT APPROVED	AMOUNT PAID	TOTAL PAID TO DATE	TOTAL INCURRED & UNPAID
1.	Kurtzman Carson Consultants LLC		39,720	39,720	490,555	41,966
2.	Sidley Austin LLP		499,548	499,548	4,992,773	1,112,556
3.	Young Conaway Stargatt & Taylor LLP			-	281,156	-
4.	FTI Consulting, Inc.		225,205	225,205	2,980,959	708,379
5.	Pachulski Stang Ziehl & Jones LLP		658,235	658,235	7,151,891	1,288,329
6	Hayward & Associates PLLC		-	-	195,676	41,158
7	Development Specialists, Inc.		249,391	249,391	2,113,396	237,828
8	Foley & Lardner LLP		17,337	17,337	464,294	119,516
9	Mercer (US) Inc.		-	-	115,956	54,328
TOTAL PAYMENTS TO PROFESSIONALS				\$1,689,437	\$18,786,656	\$3,604,059

² Does not include payments to ordinary course professionals.

POSTPETITION STATUS OF SECURED NOTES, LEASES PAYABLE AND ADEQUATE PROTECTION PAYMENTS

	NAME OF CREDITOR	SCHEDULED MONTHLY PAYMENTS DUE	AMOUNTS PAID DURING MONTH	TOTAL UNPAID POSTPETITION
1.	Crescent TC Investors LP (rent portion only)	130,364	130,364	-
2.				
3.				
4.				
5.				
6.	TOTAL	130,364	\$130,364	\$0

Monthly Operating Report
ACCRUAL BASIS-7

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: August 2020

QUESTIONNAIRE

	YES	NO
1. HAVE ANY ASSETS BEEN SOLD OR TRANSFERRED OUTSIDE THE NORMAL COURSE OF BUSINESS THIS REPORTING PERIOD?		x
2. HAVE ANY FUNDS BEEN DISBURSED FROM ANY ACCOUNT OTHER THAN A DEBTOR IN POSSESSION ACCOUNT?		x
3. ARE ANY POSTPETITION RECEIVABLES (ACCOUNTS, NOTES, OR LOANS) DUE FROM RELATED PARTIES?	x	
4. HAVE ANY PAYMENTS BEEN MADE ON PREPETITION LIABILITIES THIS REPORTING PERIOD?		x
5. HAVE ANY POSTPETITION LOANS BEEN RECEIVED BY THE DEBTOR FROM ANY PARTY?		x
6. ARE ANY POSTPETITION PAYROLL TAXES PAST DUE?		x
7. ARE ANY POSTPETITION STATE OR FEDERAL INCOME TAXES PAST DUE?		x
8. ARE ANY POSTPETITION REAL ESTATE TAXES PAST DUE?		x
9. ARE ANY OTHER POSTPETITION TAXES PAST DUE?		x
10. ARE ANY AMOUNTS OWED TO POSTPETITION CREDITORS DELINQUENT?		x
11. HAVE ANY PREPETITION TAXES BEEN PAID DURING THE REPORTING PERIOD?		x
12. ARE ANY WAGE PAYMENTS PAST DUE?		x

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "YES," PROVIDE A DETAILED EXPLANATION OF EACH ITEM. ATTACH ADDITIONAL SHEETS IF NECESSARY.

3 Debtor generates fee income and other receipts from various related parties in normal course, see cash management motion for further discussion.

INSURANCE

	YES	NO
1. ARE WORKER'S COMPENSATION, GENERAL LIABILITY AND OTHER NECESSARY INSURANCE COVERAGES IN EFFECT?	x	
2. ARE ALL PREMIUM PAYMENTS PAID CURRENT?	x	
3. PLEASE ITEMIZE POLICIES BELOW.		

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "NO," OR IF ANY POLICIES HAVE BEEN CANCELLED OR NOT RENEWED DURING THIS REPORTING PERIOD, PROVIDE AN EXPLANATION BELOW. ATTACH ADDITIONAL SHEETS IF NECESSARY.

INSTALLMENT PAYMENTS			
TYPE OF POLICY	CARRIER	PERIOD COVERED	PAYMENT AMOUNT & FREQUENCY

EXHIBIT 12

Monthly Operating Report (September 2020)

**Monthly Operating Report
ACCRUAL BASIS**

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054
JUDGE:	Stacey Jernigan


**UNITED STATES BANKRUPTCY COURT
NORTHERN & EASTERN DISTRICTS OF TEXAS
REGION 6**

MONTHLY OPERATING REPORT

MONTH ENDING: September 2020
MONTH YEAR

IN ACCORDANCE WITH TITLE 28, SECTION 1746, OF THE UNITED STATES CODE, I DECLARE UNDER PENALTY OF PERJURY THAT I HAVE EXAMINED THE FOLLOWING MONTHLY OPERATING REPORT (ACCRUAL BASIS-1 THROUGH ACCRUAL BASIS-7) AND THE ACCOMPANYING ATTACHMENTS AND, TO THE BEST OF MY KNOWLEDGE, THESE DOCUMENTS ARE TRUE, CORRECT, AND COMPLETE. DECLARATION OF THE PREPARER (OTHER THAN RESPONSIBLE PARTY) IS BASED ON ALL INFORMATION OF WHICH PREPARER HAS ANY KNOWLEDGE.

RESPONSIBLE PARTY:


ORIGINAL SIGNATURE OF RESPONSIBLE PARTY

Chief Restructuring Officer/ Chief Executive Officer
TITLE

James Seery
PRINTED NAME OF RESPONSIBLE PARTY

DATE

PREPARER:


ORIGINAL SIGNATURE OF PREPARER

Chief Financial Officer
TITLE

Frank Waterhouse
PRINTED NAME OF PREPARER

DATE



193405420110300000000007

Monthly Operating Report
ACCRUAL BASIS-1

CASE NAME:	Highland Capital Management, LP
CASE NUMBER:	19-12239-CSS

Comparative Balance Sheet
(in thousands)

	<u>10/15/2019</u>	<u>12/31/2019 ⁽⁶⁾</u>	<u>9/30/2020 ⁽⁶⁾</u>
Assets			
Cash and cash equivalents	2,529	9,501	5,888
Investments, at fair value ⁽³⁾	232,620	232,820	109,479
Equity method investees ⁽³⁾	161,819	183,529	101,213
Management and incentive fee receivable	2,579	1,929	3,350
Fixed assets, net	3,754	3,521	2,823
Due from affiliates ⁽¹⁾	151,901	146,276	152,585
Reserve against notes receivable		(57,963)	(59,140)
Other assets	11,311	11,463	12,105
Total assets	<u>\$ 566,513</u>	<u>\$ 531,076</u>	<u>\$ 328,302</u>
Liabilities and Partners' Capital			
Pre-petition accounts payable ⁽⁴⁾	1,176	1,141	1,051
Post-petition accounts payable ⁽⁴⁾	-	2,042	583
Secured debt:			
Frontier	5,195	5,195	5,195
Jefferies	30,328	30,020	-
Accrued expenses and other liabilities ⁽⁴⁾	59,203	63,275	58,733
Accrued re-organization related fees ⁽⁵⁾	-	5,547	5,922
Claim accrual ⁽²⁾	73,997	73,997	73,997
Partners' capital	396,614	349,857	182,821
Total liabilities and partners' capital	<u>\$ 566,513</u>	<u>\$ 531,076</u>	<u>\$ 328,302</u>

⁽¹⁾ Includes various notes receivable at carrying value, except note due from Hunter Mountain Investment Trust which is fully reserved against (\$59M reserve). Fair value has not been determined with respect to any of the notes.

⁽²⁾ Uncontested portion of Redeemer claim less applicable offsets. Potential for additional liability based on future events. No interest has been accrued beyond petition date. No additional accruals will be made on settlement claims until further approval by the court.

⁽³⁾ Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

⁽⁴⁾ Note on accruals: expenses recorded in Accounts Payable and Accrued Expenses and Other Liabilities reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices. For balance sheet dates other than the Petition Date, amounts include both pre-petition and post-petition liabilities.

⁽⁵⁾ Beginning December 31st, 2019, Debtor accrued for post-petition re-organization fees based upon an estimate of fees incurred to date.

⁽⁶⁾ All balances at December 31st, 2019 are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, balances for subsequent months have and will fluctuate.

Monthly Operating Report
ACCRUAL BASIS-2

CASE NAME:	Highland Capital Management, LP	
CASE NUMBER:	19-12239-CSS	

Income Statement¹
(in thousands)

	Date	Filing to Year Ended ⁽⁴⁾	Month ended ⁽⁴⁾	Filing to date ⁽⁴⁾
	10/16/19 - 10/31/19	2019	9/30/2020	
Revenue:				
Management fees	975	4,528	1,495	18,993
Shared services fees	283	1,588	645	7,248
Other income	99	1,582	401	5,058
Total operating revenue	1,357	7,697	2,541	31,299
Operating expenses:				
Compensation and benefits	997	1,498	1,668	15,778
Professional services	256	64	190	2,167
Investment research and consulting	10	266	241	960
Marketing and advertising expense	-	370	36	521
Depreciation expense	82	244	76	940
Bad debt expense reserve	-	8,410	124	9,586
Other operating expenses	201	1,265	463	4,665
Total operating expenses	1,545	12,118	2,799	34,617
Operating income/(loss)	(188)	(4,421)	(258)	(3,318)
Other income/expense:				
Interest income	250	1,230	488	5,616
Interest expense	(107)	(286)	(21)	(675)
Reserve against notes receivable	-	(57,963)	-	(57,963)
Re-org related expenses ⁽²⁾	-	(5,547)	(3,816)	(28,800)
Independent director fees	-	-	(30)	(1,977)
Other income/expense	32	32	(6)	(144)
Total other income/expense	175	(62,534)	(3,386)	(83,943)
Net realized gains/(losses) on investments	339	618	1,133	(27,738)
Net change in unrealized gains/(losses) of investments ⁽³⁾	2,654	(955)	1,480	(36,847)
	2,993	(337)	2,613	(64,585)
Net earnings/(losses) from equity method investees ⁽³⁾	(20)	14,918	337	(67,564)
Net income/(loss)	\$ 2,959	\$ (52,374)	\$ (694)	\$ (219,410)

(1) Note on accruals: expenses recorded in the Income Statement reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices.

(2) Debtor funded various retainers totaling \$790k prior to the petition date, which were entirely expensed as of the petition date.

(3) Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

(4) All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, operating results will change as these entries are made.

Monthly Operating Report Monthly Operating Report
ACCRUAL BASIS-3A ACCRUAL BASIS-3A

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

	FILING TO YEAR END 2019	QUARTER 1	QUARTER 2	SEPTEMBER	QUARTER 3
CASH RECEIPTS AND DISBURSEMENTS					
1. CASH - BEGINNING OF MONTH	\$ 2,554,230	\$ 9,501,409	\$ 12,532,467	\$ 10,025,528	\$ 14,993,872
RECEIPTS FROM OPERATIONS					
2. OTHER OPERATING RECEIPTS	\$ 1,862,757	\$ 1,379,338	\$ 2,983,221	\$ 716,191	\$ 2,259,736
3. MANAGEMENT FEES AND OTHER RELATED RECEIPTS	\$ 3,156,742	\$ 7,555,297	\$ 6,179,437	\$ 1,515,102	\$ 5,575,680
COLLECTION OF ACCOUNTS RECEIVABLE					
4. PREPETITION	\$ 3,593,108	\$ 76,569	\$ 3,727	\$ -	\$ -
5. POSTPETITION ¹	\$ -	\$ -	\$ -	\$ -	\$ -
6. TOTAL OPERATING RECEIPTS	\$ 8,612,608	\$ 9,011,204	\$ 9,166,385	\$ 2,231,293	\$ 7,835,415
NON-OPERATING RECEIPTS					
THIRD PARTY FUND ACTUAL/EXPECTED DISTRIBUTIONS					
7	\$ 423,468	\$ 18,992,786	\$ 797,571	\$ 389,357	\$ 610,254
8. DIVS, PAYDOWNS, MISC FROM INVESTMENT ASSETS	\$ 1,338,069	\$ 477,479	\$ 74,376	\$ 1,769	\$ 5,311
9. OTHER (ATTACH LIST)	\$ 3,390,286	\$ 1,407,103	\$ 10,010,000	\$ 67,099	\$ 8,817,099
10. TOTAL NON-OPERATING RECEIPTS	\$ 5,151,822	\$ 20,877,369	\$ 10,881,947	\$ 458,225	\$ 9,432,664
11. TOTAL RECEIPTS	\$ 13,764,430	\$ 29,888,573	\$ 20,048,331	\$ 2,689,517	\$ 17,268,080
12. TOTAL CASH AVAILABLE				\$ 12,715,045	\$ 32,261,951
OPERATING DISBURSEMENTS					
13. PAYROLL, BENEFITS, AND TAXES + EXP REIMB	\$ 3,776,446	\$ 8,825,042	\$ 4,886,314	\$ 1,428,122	\$ 8,806,880
14. SINGAPORE SERVICE FEES	\$ 95,118	\$ 58,129	\$ 2,965	\$ -	\$ -
15. HCM LATIN AMERICA	\$ 200,000	\$ 100,000	\$ -	\$ -	\$ -
16. THIRD PARTY FUND CAPITAL CALL OBLIGATION	\$ 1,426,987	\$ 7,812,469	\$ 3,087,163	\$ -	\$ 979,631
17. UTILITIES	\$ -	\$ -	\$ -	\$ -	\$ -
18. INSURANCE	\$ -	\$ 533,940	\$ 376,376	\$ -	\$ 163,400
19. INVENTORY PURCHASES	\$ -	\$ -	\$ -	\$ -	\$ -
20. VEHICLE EXPENSES	\$ -	\$ -	\$ -	\$ -	\$ -
21. TRAVEL	\$ -	\$ -	\$ -	\$ -	\$ -
22. ENTERTAINMENT	\$ -	\$ -	\$ -	\$ -	\$ -
23. REPAIRS & MAINTENANCE	\$ -	\$ -	\$ -	\$ -	\$ -
24. SUPPLIES	\$ -	\$ -	\$ -	\$ -	\$ -
25. ADVERTISING	\$ -	\$ -	\$ -	\$ -	\$ -
26. OTHER (ATTACH LIST)	\$ 1,318,700	\$ 3,283,898	\$ 3,195,054	\$ 1,286,630	\$ 3,633,331
27. TOTAL OPERATING DISBURSEMENTS	\$ 6,817,251	\$ 20,613,478	\$ 11,547,870	\$ 2,714,752	\$ 13,583,243
REORGANIZATION EXPENSES					
28. PROFESSIONAL FEES	\$ -	\$ 5,460,546	\$ 5,572,032	\$ 3,902,480	\$ 11,551,682
29. U.S. TRUSTEE FEES	\$ -	\$ 68,173	\$ 167,025	\$ -	\$ 277,924
30. OTHER (ATTACH LIST)	\$ -	\$ 715,317	\$ 300,000	\$ 210,000	\$ 961,289
31. TOTAL REORGANIZATION EXPENSES	\$ -	\$ 6,244,037	\$ 6,039,057	\$ 4,112,480	\$ 12,790,896
32. TOTAL DISBURSEMENTS	\$ 6,817,251	\$ 26,857,515	\$ 17,586,927	\$ 6,827,232	\$ 26,374,138
33. NET CASH FLOW	\$ 6,947,179	\$ 3,031,058	\$ 2,461,404	\$ (4,137,715)	\$ (9,106,059)
34. CASH - END OF MONTH	\$ 9,501,409	\$ 12,532,467	\$ 14,993,872	\$ 5,887,813	\$ 5,887,813

¹ All postpetition receipts are included in line 3, Management Fees and Other Related Receipts.

Monthly Operating Report
ACCRUAL BASIS-3B

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

OPERATING RECEIPTS - OTHER

Date	Amount	Type
	67,098.85	Nexpoint Real Estate Strategies Fund redemption

OPERATING DISBURSMENTS - INVESTMENT

Date	Amount	Type
	383,041.29	Carey term-loan purchase

OPERATING DISBURSMENTS - OTHER

Date	Amount	Vendor
9/1/2020	18,412.07	Ace Parking Management Inc.
9/1/2020	2,257.01	Blossberg Finance LP
9/1/2020	3,009.00	Brighthouse Life Insurance Company
9/1/2020	10,611.00	Brighthouse Life Insurance Company
9/1/2020	1,889.22	Canteen Vending Services
9/1/2020	145.20	Chase Couriers, Inc
9/1/2020	950.00	Crescent Research
9/1/2020	144,048.21	Crescent TC Investors LP
9/1/2020	2,067.50	CT Corporation System
9/1/2020	37,583.75	Third Party Consultant
9/1/2020	1,548.97	GRUBHUB for Work
9/1/2020	47,654.00	Houlihan Lokey
9/1/2020	7,617.26	ICE Data Pricing & Reference Data, LLC
9/1/2020	9,500.00	Ipreo Data Inc.
9/1/2020	89.24	Iron Mountain Records Management
9/1/2020	495.86	Jordan Fraker Photography
9/1/2020	3,392.01	NYSE MARKET, INC
9/1/2020	3,051.14	Oak Cliff Office Products
9/1/2020	1,625.00	Paessler
9/1/2020	441.34	ProStar Services, Inc
9/1/2020	107.15	UPS Supply Chain Solutions
9/9/2020	5,884.76	ABM
9/9/2020	432.00	Ace Parking Management Inc.
9/9/2020	600.00	Action Shred of Texas
9/9/2020	1,492.38	Canteen Vending Services
9/9/2020	510.61	CDW Direct
9/9/2020	11,131.97	CT Corporation System
9/9/2020	1,617.81	GRUBHUB for Work
9/9/2020	47,470.00	Houlihan Lokey
9/9/2020	35,200.00	Intex Solutions, Inc.
9/9/2020	2,668.57	Iron Mountain Records Management
9/9/2020	7,500.00	MacroMavens, LLC
9/9/2020	1,570.00	MICRO-TEL
9/9/2020	507.47	ProStar Services, Inc
9/9/2020	16,355.06	S&P Global Market Intelligence
9/9/2020	151,448.26	Siepe Services, LLC
9/9/2020	18,042.03	Siepe Software, LLC
9/9/2020	535.34	Standard Insurance Company
9/9/2020	6,369.17	TW Telecom Holdings, llc
9/9/2020	6,866.42	Willis of Texas, Inc.
9/11/2020	263.81	Directv, LLC
9/11/2020	1,000.00	Pitney Bowes- Purchase Power
9/11/2020	4,335.10	Third Party Consultant
9/14/2020	500.00	Pitney Bowes
9/17/2020	2,082.70	Zayo Group, LLC
9/18/2020	253.94	Arkadin, Inc.
9/18/2020	4,192.71	Third Party Consultant
9/18/2020	2,955.06	AT&T
9/18/2020	137.50	AT&T
9/18/2020	768.58	Audio Visual Innovations, Inc.
9/18/2020	8,140.16	Bloomberg Finance LP
9/18/2020	1,636.20	Canteen Vending Services
9/18/2020	21,863.25	CDW Direct
9/18/2020	700.00	Centroid
9/18/2020	4,059.81	Concur Technologies, Inc.
9/18/2020	369.00	CT Corporation System
9/18/2020	3,031.00	Daltex Janitorial Services, LLC
9/18/2020	859.36	DTCC ITP LLC
9/18/2020	11,887.73	Flexential Colorado Corp.
9/18/2020	2,162.11	Grubhub for Work
9/18/2020	3,762.48	ICE Data Pricing & Reference Data, LLC
9/18/2020	112.21	Iron Mountain Records Management
9/18/2020	3,766.00	MacroView Business Technology
9/18/2020	2,128.81	NYSE Market, Inc
9/18/2020	548.83	Pitney Bowes Financial Services
9/18/2020	6,757.16	Proofpoint
9/18/2020	2,466.10	Thomson West
9/18/2020	301.48	UPS Supply Chain Solutions
9/18/2020	259.80	Venture Mechanical, Inc.
9/18/2020	273.47	Verity Group
9/18/2020	416.57	Analysis Charge
9/18/2020	23.00	Chase Couriers
9/25/2020	16,750.65	Ace Parking Management Inc.
9/25/2020	1,740.82	AT&T
9/25/2020	763.22	AT&T
9/25/2020	7,147.16	AT&T
9/25/2020	1,431.77	Canteen Vending Services
9/25/2020	2,491.11	CDW Direct
9/25/2020	15,000.00	Centroid
9/25/2020	58.62	Chase Couriers
9/25/2020	320.70	CT Corporation System
9/25/2020	7,752.34	Fitch Solutions, Inc.
9/25/2020	484.96	Four Seasons Landscaping, LLC
9/25/2020	1,480.74	Grubhub for Work
9/25/2020	4,840.01	Liberty Life Assurance Company of Boston - Group Benefits
9/25/2020	562.50	Maples & Calder
9/25/2020	124,634.61	Siepe Services, LLC
9/28/2020	1,412.83	Southland Property Tax Consultants, Inc
9/29/2020	980.96	Xerox Corporation
9/30/2020	11,000.00	Third Party Consultant
9/30/2020	25.00	Bank fees returned Foley Wire
	903,589	

REORGANIZATION EXPENSES - OTHER

Date	Amount	Description
9/1/2020	30,000	Dubel & Associates, L.L.C.
9/1/2020	150,000	J.P. Seery & Co. LLC
9/1/2020	30,000	Nelms and Associates
	210,000	

Monthly Operating Report
ACCRUAL BASIS-4

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MGMT FEE RECEIVABLE AGING ²		June ³	July ³	August ³	September ³
1.	0-30	\$ 1,813,292	\$2,428,715	\$1,768,818	\$2,577,696
2.	31-60	\$1,163,000	\$1,285,718	\$772,384	
3.	61-90				\$772,384
4.	91+				
5.	TOTAL MGMT FEE RECEIVABLE	\$ 2,976,292	\$ 3,714,432	\$ 2,541,202	\$3,350,080
6.	AMOUNT CONSIDERED UNCOLLECTIBLE				
7.	MGMT FEE RECEIVABLE (NET)	\$ 2,976,292	\$ 3,714,432	\$ 2,541,202	\$3,350,080

AGING OF POSTPETITION TAXES AND PAYABLES			MONTH: September 2020		
TAXES PAYABLE	0-30 DAYS	31-60 DAYS	61-90 DAYS	91+ DAYS	TOTAL
1. FEDERAL					\$0
2. STATE					\$0
3. LOCAL					\$0
4. OTHER (ATTACH LIST)					\$0
5. TOTAL TAXES PAYABLE	\$0	\$0	\$0	\$0	\$0
6. ACCOUNTS PAYABLE	\$418,457	\$16,057	\$0	\$320,995	\$755,509

STATUS OF POSTPETITION TAXES ¹		MONTH: September 2020		
	BEGINNING TAX LIABILITY	AMOUNT WITHHELD AND/OR ACCRUED	AMOUNT PAID	ENDING TAX LIABILITY
FEDERAL				
1. WITHHOLDING				\$0
2. FICA-EMPLOYEE				\$0
3. FICA-EMPLOYER				\$0
4. UNEMPLOYMENT				\$0
5. INCOME				\$0
6. OTHER (ATTACH LIST)				\$0
7. TOTAL FEDERAL TAXES	\$0	\$0	\$0	\$0
STATE AND LOCAL				
8. WITHHOLDING				\$0
9. SALES				\$0
10. EXCISE				\$0
11. UNEMPLOYMENT				\$0
12. REAL PROPERTY	\$0	\$0	\$0	\$0
13. PERSONAL PROPERTY				\$0
14. OTHER (ATTACH LIST)				\$0
15. TOTAL STATE & LOCAL	\$0	\$0	\$0	\$0
16. TOTAL TAXES	\$0	\$0	\$0	\$0

- 1 The Debtor funds all state and federal employment taxes to Paylocity, who files all required federal and state related employment reports and withholdings.
- 2 Aging based on when management fee is due and payable.
- 3 All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process.

Monthly Operating Report
ACCRUAL BASIS-5

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: September 2020

BANK RECONCILIATIONS	Account #1	Account #2	Account #3	Account #4	Account #5	Account #6	
A. BANK:	East West Bank	East West Bank	Maxim Group	Jefferies LLC	Nexbank	East West Bank	TOTAL
B. ACCOUNT NUMBER:	x4686	x4693	x1885	x0932	x5891	x5848	
C. PURPOSE (TYPE):	Operating	Insurance	Brokerage	Brokerage	CD	Prepaid Card	
1. BALANCE PER BANK STATEMENT ¹	\$ 5,617,167	\$ 32,373	\$ 30	\$ -	\$ 138,190	\$ 100,052	\$ 5,887,812
2. ADD: TOTAL DEPOSITS NOT CREDITED							\$ -
3. SUBTRACT: OUTSTANDING CHECKS							\$ -
4. OTHER RECONCILING ITEMS							\$ -
5. MONTH END BALANCE PER BOOKS	\$ 5,617,167	\$ 32,373	\$ 30	\$ -	\$ 138,190	\$ 100,052	\$ 5,887,812
6. NUMBER OF LAST CHECK WRITTEN	100510	n/a	n/a	n/a	n/a	n/a	

INVESTMENT ACCOUNTS	DATE OF PURCHASE	TYPE OF INSTRUMENT	PURCHASE PRICE	CURRENT VALUE
BANK, ACCOUNT NAME & NUMBER				
7.				
8.				
9.				
10.				
11. TOTAL INVESTMENTS			\$0	\$0

CASH	
12. CURRENCY ON HAND	\$0
13. TOTAL CASH - END OF MONTH	\$5,887,812

¹ Account x6342 is now closed.

Monthly Operating Report
ACCRUAL BASIS-6

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: September 2020

PAYMENTS TO INSIDERS AND PROFESSIONALS

INSIDERS				
	NAME	TYPE OF PAYMENT	AMOUNT PAID	TOTAL PAID POST PETITION
1	Frank Waterhouse	Salary	\$33,333	\$360,417
2	Frank Waterhouse	Expense Reimbursement	\$807	\$5,918
3	Scott Ellington	Salary	\$37,500	\$431,250
4	Scott Ellington	Expense Reimbursement	\$252	\$6,095
5	James Dondero	Salary	\$0	\$129,972
6	James Dondero	Expense Reimbursement ¹	\$0	\$16,918
7	Thomas Surgent	Salary	\$33,333	\$383,333
8	Thomas Surgent	Expense Reimbursement	\$456	\$4,222
9	Trey Parker	Salary	\$0	\$131,250
10	Trey Parker	Expense Reimbursement	\$0	\$6,212
TOTAL PAYMENTS TO INSIDERS			\$105,681	\$1,475,585

¹ The total amount of reimbursements during the reporting month also included \$5,675 for use of the credit card by the Debtor for office related expenses such as subscriptions, vending supplies, and IT equipment/software.

PROFESSIONALS ²						
NAME		DATE OF MONTHLY FEE APPLICATION	AMOUNT APPROVED	AMOUNT PAID	TOTAL PAID TO DATE	TOTAL INCURRED & UNPAID
1.	Kurtzman Carson Consultants LLC		41,966	41,966	532,521	95,605
2.	Sidley Austin LLP		814,318	814,318	5,807,091	1,333,420
3.	Young Conaway Stargatt & Taylor LLP			-	281,156	-
4.	FTI Consulting, Inc.		626,333	626,333	3,607,292	559,823
5.	Pachulski Stang Ziehl & Jones LLP		1,283,329	1,283,329	8,435,219	1,512,143
6	Hayward & Associates PLLC		60,736	60,736	256,412	10,828
7	Development Specialists, Inc.		237,828	237,828	2,351,224	249,129
8	Foley & Lardner LLP		-		464,294	119,516
9	Mercer (US) Inc.		54,328	54,328	170,284	-
10	Wilmer Cutler Pickering Hale and Dorr LLP		618,643	618,643	618,643	
11	Meta-e Discovery LLC		165,000	165,000	165,000	
TOTAL PAYMENTS TO PROFESSIONALS				3,902,480	22,689,136	3,880,463

² Does not include payments to ordinary course professionals.

POSTPETITION STATUS OF SECURED NOTES, LEASES PAYABLE AND ADEQUATE PROTECTION PAYMENTS

	NAME OF CREDITOR	SCHEDULED MONTHLY PAYMENTS DUE	AMOUNTS PAID DURING MONTH	TOTAL UNPAID POSTPETITION
1.	Crescent TC Investors LP (rent portion only)	130,364	130,364	-
2.				
3.				
4.				
5.				
6.	TOTAL	130,364	\$130,364	\$0

Monthly Operating Report
ACCRUAL BASIS-7

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: September 2020

QUESTIONNAIRE

	YES	NO
1. HAVE ANY ASSETS BEEN SOLD OR TRANSFERRED OUTSIDE THE NORMAL COURSE OF BUSINESS THIS REPORTING PERIOD?		x
2. HAVE ANY FUNDS BEEN DISBURSED FROM ANY ACCOUNT OTHER THAN A DEBTOR IN POSSESSION ACCOUNT?		x
3. ARE ANY POSTPETITION RECEIVABLES (ACCOUNTS, NOTES, OR LOANS) DUE FROM RELATED PARTIES?	x	
4. HAVE ANY PAYMENTS BEEN MADE ON PREPETITION LIABILITIES THIS REPORTING PERIOD?		x
5. HAVE ANY POSTPETITION LOANS BEEN RECEIVED BY THE DEBTOR FROM ANY PARTY?		x
6. ARE ANY POSTPETITION PAYROLL TAXES PAST DUE?		x
7. ARE ANY POSTPETITION STATE OR FEDERAL INCOME TAXES PAST DUE?		x
8. ARE ANY POSTPETITION REAL ESTATE TAXES PAST DUE?		x
9. ARE ANY OTHER POSTPETITION TAXES PAST DUE?		x
10. ARE ANY AMOUNTS OWED TO POSTPETITION CREDITORS DELINQUENT?		x
11. HAVE ANY PREPETITION TAXES BEEN PAID DURING THE REPORTING PERIOD?		x
12. ARE ANY WAGE PAYMENTS PAST DUE?		x

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "YES," PROVIDE A DETAILED EXPLANATION OF EACH ITEM. ATTACH ADDITIONAL SHEETS IF NECESSARY.

3 Debtor generates fee income and other receipts from various related parties in normal course, see cash management motion for further discussion.

INSURANCE

	YES	NO
1. ARE WORKER'S COMPENSATION, GENERAL LIABILITY AND OTHER NECESSARY INSURANCE COVERAGES IN EFFECT?	x	
2. ARE ALL PREMIUM PAYMENTS PAID CURRENT?	x	
3. PLEASE ITEMIZE POLICIES BELOW.		

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "NO," OR IF ANY POLICIES HAVE BEEN CANCELLED OR NOT RENEWED DURING THIS REPORTING PERIOD, PROVIDE AN EXPLANATION BELOW. ATTACH ADDITIONAL SHEETS IF NECESSARY.

INSTALLMENT PAYMENTS			
TYPE OF POLICY	CARRIER	PERIOD COVERED	PAYMENT AMOUNT & FREQUENCY

EXHIBIT 13

Monthly Operating Report (October 2020)

**Monthly Operating Report
ACCRUAL BASIS**

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054
JUDGE:	Stacey Jernigan

**UNITED STATES BANKRUPTCY COURT
NORTHERN & EASTERN DISTRICTS OF TEXAS
REGION 6**

MONTHLY OPERATING REPORT

MONTH ENDING: October 2020
MONTH YEAR


IN ACCORDANCE WITH TITLE 28, SECTION 1746, OF THE UNITED STATES CODE, I DECLARE UNDER PENALTY OF PERJURY THAT I HAVE EXAMINED THE FOLLOWING MONTHLY OPERATING REPORT (ACCRUAL BASIS-1 THROUGH ACCRUAL BASIS-7) AND THE ACCOMPANYING ATTACHMENTS AND, TO THE BEST OF MY KNOWLEDGE, THESE DOCUMENTS ARE TRUE, CORRECT, AND COMPLETE. DECLARATION OF THE PREPARER (OTHER THAN RESPONSIBLE PARTY) IS BASED ON ALL INFORMATION OF WHICH PREPARER HAS ANY KNOWLEDGE.

RESPONSIBLE PARTY:


ORIGINAL SIGNATURE OF RESPONSIBLE PARTY
James Seery
PRINTED NAME OF RESPONSIBLE PARTY

Chief Restructuring Officer/ Chief Executive Officer
TITLE
12-1-20
DATE

PREPARER:


ORIGINAL SIGNATURE OF PREPARER
Frank Waterhouse
PRINTED NAME OF PREPARER

Chief Financial Officer
TITLE
12.1.20
DATE



193405420120100000000001

Monthly Operating Report
ACCRUAL BASIS-1

CASE NAME:	Highland Capital Management, LP
CASE NUMBER:	19-12239-CSS

Comparative Balance Sheet
(in thousands)

	<u>10/15/2019</u>	<u>12/31/2019 ⁽⁶⁾</u>	<u>10/31/2020 ⁽⁶⁾</u>
Assets			
Cash and cash equivalents	2,529	9,501	8,753
Investments, at fair value ⁽³⁾	232,620	232,820	107,676
Equity method investees ⁽³⁾	161,819	183,529	95,244
Management and incentive fee receivable	2,579	1,929	4,703
Fixed assets, net	3,754	3,521	2,746
Due from affiliates ⁽¹⁾	151,901	146,276	149,822
Reserve against notes receivable		(57,963)	(59,269)
Other assets	11,311	11,463	12,467
Total assets	<u>\$ 566,513</u>	<u>\$ 531,076</u>	<u>\$ 322,143</u>
Liabilities and Partners' Capital			
Pre-petition accounts payable ⁽⁴⁾	1,176	1,141	1,077
Post-petition accounts payable ⁽⁴⁾	-	2,042	923
Secured debt:			
Frontier	5,195	5,195	5,195
Jefferies	30,328	30,020	-
Accrued expenses and other liabilities ⁽⁴⁾	59,203	63,275	59,815
Accrued re-organization related fees ⁽⁵⁾	-	5,547	7,021
Claim accrual ⁽²⁾	73,997	73,997	73,997
Partners' capital	396,614	349,857	174,115
Total liabilities and partners' capital	<u>\$ 566,513</u>	<u>\$ 531,076</u>	<u>\$ 322,143</u>

⁽¹⁾ Includes various notes receivable at carrying value, except note due from Hunter Mountain Investment Trust which is fully reserved against (\$59M reserve). Fair value has not been determined with respect to any of the notes.

⁽²⁾ Uncontested portion of Redeemer claim less applicable offsets. Potential for additional liability based on future events. No interest has been accrued beyond petition date. No additional accruals will be made on settlement claims until further approval by the court.

⁽³⁾ Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

⁽⁴⁾ Note on accruals: expenses recorded in Accounts Payable and Accrued Expenses and Other Liabilities reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices. For balance sheet dates other than the Petition Date, amounts include both pre-petition and post-petition liabilities.

⁽⁵⁾ Beginning December 31st, 2019, Debtor accrued for post-petition re-organization fees based upon an estimate of fees incurred to date.

⁽⁶⁾ All balances at December 31st, 2019 are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, balances for subsequent months have and will fluctuate.

Monthly Operating Report
ACCRUAL BASIS-2

CASE NAME:	Highland Capital Management, LP	
CASE NUMBER:	19-12239-CSS	

Income Statement¹
(in thousands)

	Date	Filing to Year Ended ⁽⁴⁾	Month ended ⁽⁴⁾	Filing to date ⁽⁴⁾
	10/16/19 - 10/31/19	2019	10/31/2020	
Revenue:				
Management fees	975	4,528	2,099	21,113
Shared services fees	283	1,588	638	7,886
Other income	99	1,582	19	5,077
Total operating revenue	1,357	7,697	2,756	34,076
Operating expenses:				
Compensation and benefits	997	1,498	1,634	17,412
Professional services	256	64	218	2,385
Investment research and consulting	10	266	5	965
Marketing and advertising expense	-	370	7	528
Depreciation expense	82	244	76	1,016
Bad debt expense reserve	-	8,410	128	9,715
Other operating expenses	201	1,265	443	5,108
Total operating expenses	1,545	12,118	2,511	37,129
Operating income/(loss)	(188)	(4,421)	245	(3,052)
Other income/expense:				
Interest income	250	1,230	505	6,121
Interest expense	(107)	(286)	(22)	(697)
Reserve against notes receivable	-	(57,963)	-	(57,963)
Re-org related expenses ⁽²⁾	-	(5,547)	(1,309)	(30,108)
Independent director fees	-	-	-	(1,977)
Other income/expense	32	32	(24)	(168)
Total other income/expense	175	(62,534)	(850)	(84,793)
Net realized gains/(losses) on investments	339	618	2,527	(25,211)
Net change in unrealized gains/(losses) of investments ⁽³⁾	2,654	(955)	(4,680)	(41,527)
	2,993	(337)	(2,153)	(66,738)
Net earnings/(losses) from equity method investees ⁽³⁾	(20)	14,918	(5,969)	(73,533)
Net income/(loss)	\$ 2,959	\$ (52,374)	\$ (8,728)	\$ (228,116)

(1) Note on accruals: expenses recorded in the Income Statement reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices.

(2) Debtor funded various retainers totaling \$790k prior to the petition date, which were entirely expensed as of the petition date.

(3) Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

(4) All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, operating results will change as these entries are made.

Monthly Operating Report
ACCRUAL BASIS-3A

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

	FILING TO YEAR END 2019	QUARTER 1	QUARTER 2	QUARTER 3	OCTOBER
CASH RECEIPTS AND DISBURSEMENTS					
1. CASH - BEGINNING OF MONTH	\$ 2,554,230	\$ 9,501,409	\$ 12,532,467	\$ 14,993,872	\$ 5,887,813
RECEIPTS FROM OPERATIONS					
2. OTHER OPERATING RECEIPTS	\$ 1,862,757	\$ 1,379,338	\$ 2,983,221	\$ 2,259,736	\$ 598,804
3. MANAGEMENT FEES AND OTHER RELATED RECEIPTS	\$ 3,156,742	\$ 7,555,297	\$ 6,179,437	\$ 5,575,680	\$ 1,367,428
COLLECTION OF ACCOUNTS RECEIVABLE					
4. PREPETITION	\$ 3,593,108	\$ 76,569	\$ 3,727	\$ -	\$ -
5. POSTPETITION ¹	\$ -	\$ -	\$ -	\$ -	\$ -
6. TOTAL OPERATING RECEIPTS	\$ 8,612,608	\$ 9,011,204	\$ 9,166,385	\$ 7,835,415	\$ 1,966,232
NON-OPERATING RECEIPTS					
7. THIRD PARTY FUND ACTUAL/EXPECTED DISTRIBUTIONS	\$ 423,468	\$ 18,992,786	\$ 797,571	\$ 610,254	\$ -
8. DIVS, PAYDOWNS, MISC FROM INVESTMENT ASSETS	\$ 1,338,069	\$ 477,479	\$ 74,376	\$ 5,311	\$ 1,242
9. OTHER (ATTACH LIST)	\$ 3,390,286	\$ 1,407,103	\$ 10,010,000	\$ 8,817,099	\$ 3,269,000
10. TOTAL NON-OPERATING RECEIPTS	\$ 5,151,822	\$ 20,877,369	\$ 10,881,947	\$ 9,432,664	\$ 3,270,242
11. TOTAL RECEIPTS	\$ 13,764,430	\$ 29,888,573	\$ 20,048,331	\$ 17,268,080	\$ 5,236,475
12. TOTAL CASH AVAILABLE				\$ 32,261,951	\$ 11,124,288
OPERATING DISBURSEMENTS					
13. PAYROLL, BENEFITS, AND TAXES + EXP REIMB	\$ 3,776,446	\$ 8,825,042	\$ 4,886,314	\$ 8,806,880	\$ 1,347,709
14. SINGAPORE SERVICE FEES	\$ 95,118	\$ 58,129	\$ 2,965	\$ -	\$ 10,547
15. HCM LATIN AMERICA	\$ 200,000	\$ 100,000	\$ -	\$ -	\$ -
16. THIRD PARTY FUND CAPITAL CALL OBLIGATION	\$ 1,426,987	\$ 7,812,469	\$ 3,087,163	\$ 979,631	\$ 110,220
17. UTILITIES	\$ -	\$ -	\$ -	\$ -	\$ -
18. INSURANCE	\$ -	\$ 533,940	\$ 376,376	\$ 163,400	\$ -
19. INVENTORY PURCHASES	\$ -	\$ -	\$ -	\$ -	\$ -
20. VEHICLE EXPENSES	\$ -	\$ -	\$ -	\$ -	\$ -
21. TRAVEL	\$ -	\$ -	\$ -	\$ -	\$ -
22. ENTERTAINMENT	\$ -	\$ -	\$ -	\$ -	\$ -
23. REPAIRS & MAINTENANCE	\$ -	\$ -	\$ -	\$ -	\$ -
24. SUPPLIES	\$ -	\$ -	\$ -	\$ -	\$ -
25. ADVERTISING	\$ -	\$ -	\$ -	\$ -	\$ -
26. OTHER (ATTACH LIST)	\$ 1,318,700	\$ 3,283,898	\$ 3,195,054	\$ 3,633,331	\$ 653,828
27. TOTAL OPERATING DISBURSEMENTS	\$ 6,817,251	\$ 20,613,478	\$ 11,547,870	\$ 13,583,243	\$ 2,122,305
REORGANIZATION EXPENSES					
28. PROFESSIONAL FEES	\$ -	\$ 5,460,546	\$ 5,572,032	\$ 11,551,682	\$ 39,255
29. U.S. TRUSTEE FEES	\$ -	\$ 68,173	\$ 167,025	\$ 277,924	\$ -
30. OTHER (ATTACH LIST)	\$ -	\$ 715,317	\$ 300,000	\$ 961,289	\$ 210,000
31. TOTAL REORGANIZATION EXPENSES	\$ -	\$ 6,244,037	\$ 6,039,057	\$ 12,790,896	\$ 249,255
32. TOTAL DISBURSEMENTS	\$ 6,817,251	\$ 26,857,515	\$ 17,586,927	\$ 26,374,138	\$ 2,371,560
33. NET CASH FLOW	\$ 6,947,179	\$ 3,031,058	\$ 2,461,404	\$ (9,106,059)	\$ 2,864,915
34. CASH - END OF MONTH	\$ 9,501,409	\$ 12,532,467	\$ 14,993,872	\$ 5,887,813	\$ 8,752,728

¹ All postpetition receipts are included in line 3, Management Fees and Other Related Receipts.

Monthly Operating Report
ACCRUAL BASIS-3B

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

OPERATING DISBURSMENTS - OTHER

Date	Amount	Vendor
10/1/2020	158,674.80	Crescent TC Investors LP
10/1/2020	35,839.30	East West Visa pmt
10/2/2020	51.72	American Solutions for Business
10/2/2020	67.92	UPS Supply Chain Solutions
10/2/2020	300.00	Action Shred of Texas
10/2/2020	593.75	ProStar Services, Inc
10/2/2020	1,649.07	GRUBHUB for Work
10/2/2020	2,567.28	Canteen Vending Services
10/2/2020	2,668.57	Iron Mountain Records Management
10/2/2020	5,884.76	ABM
10/2/2020	6,866.42	Willis of Texas, Inc.
10/2/2020	11,423.25	Fitch Solutions, Inc.
10/2/2020	18,042.03	Siepe Software, LLC
10/2/2020	35,200.00	Intex Solutions, Inc.
10/2/2020	3,102.00	Third Party Consultant
10/2/2020	6,179.02	TW Telecom Holdings, llc
10/2/2020	11,532.12	ICE Data Pricing & Reference Data, LLC
10/2/2020	44,741.78	Third Party Consultant
10/8/2020	263.81	Directv, LLC
10/8/2020	664.00	PBGC
10/9/2020	158.36	UPS Supply Chain Solutions
10/9/2020	13,271.70	Refinitiv US LLC
10/9/2020	330.77	ProStar Services, Inc
10/9/2020	1,208.84	Options Price Reporting Authority
10/9/2020	2,128.81	NYSE MARKET, INC
10/9/2020	112.21	Iron Mountain Records Management
10/9/2020	6,863.93	ICE Data Pricing & Reference Data, LLC
10/9/2020	47,729.56	Houlihan Lokey
10/9/2020	1,622.46	GRUBHUB for Work
10/9/2020	100.32	CT Corporation System
10/9/2020	4,059.81	Concur Technologies, Inc.
10/9/2020	15,197.50	Centroid
10/9/2020	824.31	CDW Direct
10/9/2020	1,590.12	Canteen Vending Services
10/9/2020	20,731.98	Bloomberg Finance LP
10/9/2020	158.04	Arkadin, Inc.
10/9/2020	342.00	Ace Parking Management Inc.
10/9/2020	2,466.10	Thomson West
10/14/2020	550.67	Xerox Corporation
10/14/2020	10,407.89	Pricewaterhouse Coopers, LLP
10/15/2020	1,000.00	Pitney Bowes- Purchase Power
10/16/2020	7,551.64	ICE Data Pricing & Reference Data, LLC
10/16/2020	293.63	UPS Supply Chain Solutions
10/16/2020	320.90	Verity Group
10/16/2020	938.36	Standard Insurance Company
10/16/2020	1,825.96	GRUBHUB for Work
10/16/2020	2,391.37	Canteen Vending Services
10/16/2020	3,236.64	DTCC ITP LLC
10/16/2020	19,159.48	Strategas Securities LLC
10/19/2020	2,092.34	Zayo Group, LLC
10/20/2020	880.04	EastWest Bank
10/22/2020	24.60	CHASE COURIERS, INC
10/22/2020	87.50	UPS Supply Chain Solutions
10/22/2020	303.10	Four Seasons Landscaping, LLC
10/22/2020	1,171.83	Canteen Vending Services
10/22/2020	3,251.87	Third Party Consultant
10/22/2020	11,887.73	Flexential Colorado Corp.
10/22/2020	16,967.11	Ace Parking Management Inc.
10/22/2020	18,673.13	MERGERMARKET LTD
10/22/2020	4,629.14	Liberty Life Assurance Company of Boston - Group Benefits
10/27/2020	34,520.76	Reorg Research, Inc.
10/28/2020	12,250.00	Summit Management Limited
10/30/2020	3,500.00	MaplesFS Service Company Limited
10/30/2020	1,914.10	Canteen Vending Services
10/30/2020	1,692.38	Oracle America, Inc.
10/30/2020	1,642.86	GRUBHUB for Work
10/30/2020	1,270.09	ICE Data Pricing & Reference Data, LLC
10/30/2020	740.80	CDW Direct
10/30/2020	715.53	ProStar Services, Inc
10/30/2020	552.35	DTCC ITP LLC
10/30/2020	495.00	Intralinks
10/30/2020	172.44	UPS Supply Chain Solutions
10/30/2020	146.14	Secured Access Systems, LLC
10/30/2020	12,996.05	Third Party Consultant
10/30/2020	6,866.42	Willis of Texas, Inc.
10/30/2020	137.50	AT&T
10/30/2020	1,362.60	Discovery Benefits Admin
	653,828	

REORGANIZATION EXPENSES - OTHER

Date	Amount	Description
10/1/2020	30,000	Dubel & Associates, L.L.C.
10/1/2020	150,000	J.P. Seery & Co. LLC
10/1/2020	30,000	Nelms and Associates
	210,000	

Monthly Operating Report
ACCRUAL BASIS-4

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MGMT FEE RECEIVABLE AGING ²		July ³	August ³	September ³	October ³
1.	0-30	\$2,428,715	\$1,768,818	\$2,577,696	\$3,148,887
2.	31-60	\$1,285,718	\$772,384		\$807,441
3.	61-90			\$772,384	
4.	91+				\$746,913
5.	TOTAL MGMT FEE RECEIVABLE	\$ 3,714,432	\$ 2,541,202	\$ 3,350,080	\$4,703,241
6.	AMOUNT CONSIDERED UNCOLLECTIBLE				
7.	MGMT FEE RECEIVABLE (NET)	\$ 3,714,432	\$ 2,541,202	\$ 3,350,080	\$4,703,241

AGING OF POSTPETITION TAXES AND PAYABLES			MONTH: October 2020		
TAXES PAYABLE	0-30 DAYS	31-60 DAYS	61-90 DAYS	91+ DAYS	TOTAL
1. FEDERAL					\$0
2. STATE					\$0
3. LOCAL					\$0
4. OTHER (ATTACH LIST)					\$0
5. TOTAL TAXES PAYABLE	\$0	\$0	\$0	\$0	\$0
6. ACCOUNTS PAYABLE	\$723,031	\$83,748	\$14,787	\$101,044	\$922,610

STATUS OF POSTPETITION TAXES ¹		MONTH: October 2020		
	BEGINNING TAX LIABILITY	AMOUNT WITHHELD AND/OR ACCRUED	AMOUNT PAID	ENDING TAX LIABILITY
FEDERAL				
1. WITHHOLDING				\$0
2. FICA-EMPLOYEE				\$0
3. FICA-EMPLOYER				\$0
4. UNEMPLOYMENT				\$0
5. INCOME				\$0
6. OTHER (ATTACH LIST)				\$0
7. TOTAL FEDERAL TAXES	\$0	\$0	\$0	\$0
STATE AND LOCAL				
8. WITHHOLDING				\$0
9. SALES				\$0
10. EXCISE				\$0
11. UNEMPLOYMENT				\$0
12. REAL PROPERTY	\$0	\$0	\$0	\$0
13. PERSONAL PROPERTY				\$0
14. OTHER (ATTACH LIST)				\$0
15. TOTAL STATE & LOCAL	\$0	\$0	\$0	\$0
16. TOTAL TAXES	\$0	\$0	\$0	\$0

- 1 The Debtor funds all state and federal employment taxes to Paylocity, who files all required federal and state related employment reports and withholdings.
- 2 Aging based on when management fee is due and payable.
- 3 All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process.

Monthly Operating Report
 ACCRUAL BASIS-5

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: October 2020

BANK RECONCILIATIONS	Account #1	Account #2	Account #3	Account #4	Account #5	Account #6	
A. BANK:	East West Bank	East West Bank	Maxim Group	Jefferies LLC	Nexbank	East West Bank	TOTAL
B. ACCOUNT NUMBER:	x4686	x4693	x1885	x0932	x5891	x5848	
C. PURPOSE (TYPE):	Operating	Insurance	Brokerage	Brokerage	CD	Prepaid Card	
1. BALANCE PER BANK STATEMENT ¹	\$ 8,286,354	\$ 228,102	\$ 30	\$ -	\$ 138,190	\$ 100,060	\$ 8,752,736
2. ADD: TOTAL DEPOSITS NOT CREDITED							\$ -
3. SUBTRACT: OUTSTANDING CHECKS							\$ -
4. OTHER RECONCILING ITEMS							\$ -
5. MONTH END BALANCE PER BOOKS	\$ 8,286,354	\$ 228,102	\$ 30	\$ -	\$ 138,190	\$ 100,060	\$ 8,752,736
6. NUMBER OF LAST CHECK WRITTEN	100510	n/a	n/a	n/a	n/a	n/a	

INVESTMENT ACCOUNTS	DATE OF PURCHASE	TYPE OF INSTRUMENT	PURCHASE PRICE	CURRENT VALUE
BANK, ACCOUNT NAME & NUMBER				
7.				
8.				
9.				
10.				
11. TOTAL INVESTMENTS			\$0	\$0

CASH	
12. CURRENCY ON HAND	\$0
13. TOTAL CASH - END OF MONTH	\$8,752,736

1 Account x6342 is now closed.

Monthly Operating Report
ACCRUAL BASIS-6

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: October 2020

PAYMENTS TO INSIDERS AND PROFESSIONALS

INSIDERS				
NAME		TYPE OF PAYMENT	AMOUNT PAID	TOTAL PAID POST PETITION
1	Frank Waterhouse	Salary	\$33,333	\$393,750
2	Frank Waterhouse	Expense Reimbursement	\$304	\$6,222
3	Scott Ellington	Salary	\$37,500	\$468,750
4	Scott Ellington	Expense Reimbursement	\$244	\$6,338
5	James Dondero	Salary	\$0	\$129,972
6	James Dondero	Expense Reimbursement ¹	\$0	\$16,918
7	Thomas Surgent	Salary	\$33,333	\$416,667
8	Thomas Surgent	Expense Reimbursement	\$360	\$4,581
9	Trey Parker	Salary	\$0	\$131,250
10	Trey Parker	Expense Reimbursement	\$0	\$6,212
TOTAL PAYMENTS TO INSIDERS			\$105,074	\$1,580,659

¹ The total amount of reimbursements during the reporting month also included \$8,194 for use of the credit card by the Debtor for office related expenses such as subscriptions and IT equipment/software.

PROFESSIONALS ²						
NAME		DATE OF MONTHLY FEE APPLICATION	AMOUNT APPROVED	AMOUNT PAID	TOTAL PAID TO DATE	TOTAL INCURRED & UNPAID
1.	Kurtzman Carson Consultants LLC		-	-	532,521	54,170
2.	Sidley Austin LLP		-	-	5,807,091	821,421
3.	Young Conaway Stargatt & Taylor LLP		-	-	281,156	-
4.	FTI Consulting, Inc.		-	-	3,607,292	391,704
5.	Pachulski Stang Ziehl & Jones LLP		-	-	8,435,219	2,109,271
6	Hayward & Associates PLLC		-	-	256,412	5,957
7	Development Specialists, Inc.		-	-	2,351,224	-
8	Foley & Lardner LLP		-	-	464,294	127,594
9	Mercer (US) Inc.		-	-	170,284	-
10	Wilmer Cutler Pickering Hale and Dorr LLP		-	-	618,643	
11	Meta-e Discovery LLC		-	-	165,000	
TOTAL PAYMENTS TO PROFESSIONALS				-	22,689,136	3,510,117

² Does not include payments to ordinary course professionals.

POSTPETITION STATUS OF SECURED NOTES, LEASES PAYABLE AND ADEQUATE PROTECTION PAYMENTS

	NAME OF CREDITOR	SCHEDULED MONTHLY PAYMENTS DUE	AMOUNTS PAID DURING MONTH	TOTAL UNPAID POSTPETITION
1.	Crescent TC Investors LP (rent portion only)	130,364	130,364	-
2.				
3.				
4.				
5.				
6.	TOTAL	130,364	\$130,364	\$0

Monthly Operating Report
ACCRUAL BASIS-7

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: October 2020

QUESTIONNAIRE

	YES	NO
1. HAVE ANY ASSETS BEEN SOLD OR TRANSFERRED OUTSIDE THE NORMAL COURSE OF BUSINESS THIS REPORTING PERIOD?		x
2. HAVE ANY FUNDS BEEN DISBURSED FROM ANY ACCOUNT OTHER THAN A DEBTOR IN POSSESSION ACCOUNT?		x
3. ARE ANY POSTPETITION RECEIVABLES (ACCOUNTS, NOTES, OR LOANS) DUE FROM RELATED PARTIES?	x	
4. HAVE ANY PAYMENTS BEEN MADE ON PREPETITION LIABILITIES THIS REPORTING PERIOD?		x
5. HAVE ANY POSTPETITION LOANS BEEN RECEIVED BY THE DEBTOR FROM ANY PARTY?		x
6. ARE ANY POSTPETITION PAYROLL TAXES PAST DUE?		x
7. ARE ANY POSTPETITION STATE OR FEDERAL INCOME TAXES PAST DUE?		x
8. ARE ANY POSTPETITION REAL ESTATE TAXES PAST DUE?		x
9. ARE ANY OTHER POSTPETITION TAXES PAST DUE?		x
10. ARE ANY AMOUNTS OWED TO POSTPETITION CREDITORS DELINQUENT?		x
11. HAVE ANY PREPETITION TAXES BEEN PAID DURING THE REPORTING PERIOD?		x
12. ARE ANY WAGE PAYMENTS PAST DUE?		x

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "YES," PROVIDE A DETAILED EXPLANATION OF EACH ITEM. ATTACH ADDITIONAL SHEETS IF NECESSARY.

3 Debtor generates fee income and other receipts from various related parties in normal course, see cash management motion for further discussion.

INSURANCE

	YES	NO
1. ARE WORKER'S COMPENSATION, GENERAL LIABILITY AND OTHER NECESSARY INSURANCE COVERAGES IN EFFECT?	x	
2. ARE ALL PREMIUM PAYMENTS PAID CURRENT?	x	
3. PLEASE ITEMIZE POLICIES BELOW.		

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "NO," OR IF ANY POLICIES HAVE BEEN CANCELLED OR NOT RENEWED DURING THIS REPORTING PERIOD, PROVIDE AN EXPLANATION BELOW. ATTACH ADDITIONAL SHEETS IF NECESSARY.

INSTALLMENT PAYMENTS			
TYPE OF POLICY	CARRIER	PERIOD COVERED	PAYMENT AMOUNT & FREQUENCY

EXHIBIT 14

Monthly Operating Report (November 2020)

Monthly Operating Report
ACCRUAL BASIS

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054
JUDGE:	Stacey Jernigan

UNITED STATES BANKRUPTCY COURT
NORTHERN & EASTERN DISTRICTS OF TEXAS
Docket #1710 Date Filed: 01/08/2021
REGION 6

MONTHLY OPERATING REPORT

MONTH ENDING: November 2020
MONTH YEAR

IN ACCORDANCE WITH TITLE 28, SECTION 1746, OF THE UNITED STATES CODE, I DECLARE UNDER PENALTY OF PERJURY THAT I HAVE EXAMINED THE FOLLOWING MONTHLY OPERATING REPORT (ACCRUAL BASIS-1 THROUGH ACCRUAL BASIS-7) AND THE ACCOMPANYING ATTACHMENTS AND, TO THE BEST OF MY KNOWLEDGE, THESE DOCUMENTS ARE TRUE, CORRECT, AND COMPLETE. DECLARATION OF THE PREPARER (OTHER THAN RESPONSIBLE PARTY) IS BASED ON ALL INFORMATION OF WHICH PREPARER HAS ANY KNOWLEDGE.

RESPONSIBLE PARTY.

ORIGINAL SIGNATURE OF RESPONSIBLE PARTY

Chief Restructuring Officer/ Chief Executive Officer
TITLE

James Seery

PRINTED NAME OF RESPONSIBLE PARTY

DATE

PREPARER.

ORIGINAL SIGNATURE OF PREPARER

Chief Financial Officer

TITLE

Frank Waterhouse

PRINTED NAME OF PREPARER

1.07.21

DATE



193405421010800000000008

Monthly Operating Report
ACCRUAL BASIS-I

CASE NAME:	Highland Capital Management, LP
CASE NUMBER:	19-12239-CSS

Comparative Balance Sheet
(in thousands)

	10/15/2019	12/31/2019 ⁽⁶⁾	11/30/2020 ⁽⁶⁾
Assets			
Cash and cash equivalents	2,529	9,501	13,367
Investments, at fair value ⁽³⁾	232,620	232,820	106,344
Equity method investees ⁽³⁾	161,819	183,529	94,853
Management and incentive fee receivable	2,579	1,929	1,496
Fixed assets, net	3,754	3,521	2,670
Due from affiliates ⁽¹⁾	151,901	146,276	150,152
Reserve against notes recievable		(57,963)	(59,393)
Other assets	11,311	11,463	8,961
Total assets	\$ 566,513	\$ 531,076	\$ 318,449
Liabilities and Partners' Capital			
Pre-petition accounts payable ⁽⁴⁾	1,176	1,141	1,077
Post-petition accounts payable ⁽⁴⁾	-	2,042	750
Secured debt:			
Frontier	5,195	5,195	5,195
Jefferies	30,328	30,020	-
Accrued expenses and other liabilities ⁽⁴⁾	59,203	63,275	58,254
Accrued re-organization related fees ⁽⁵⁾	-	5,547	7,823
Claim accrual ⁽²⁾	73,997	73,997	73,997
Partners' capital	396,614	349,857	171,353
Total liabilities and partners' capital	\$ 566,513	\$ 531,076	\$ 318,449

⁽¹⁾ Includes various notes receivable at carrying value, except note due from Hunter Mountain Investment Trust which is fully reserved against (\$59M reserve). Fair value has not been determined with respect to any of the notes.

⁽²⁾ Uncontested portion of Redeemer claim less appplicable offsets. Potential for additional liability based on future events. No interest has been accrued beyond petition date. No additional accruals will be made on settlement claims until further approval by the court.

⁽³⁾ Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

⁽⁴⁾ Note on accruals: expenses recorded in Accounts Payable and Accrued Expenses and Other Liabilities reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices. For balance sheet dates other than the Petition Date, amounts include both pre-petition and post-petition liabilities. There are additional compensation accrual amounts of \$5.7mm that are not accounted for as of the report date

⁽⁵⁾ Beginning December 31st, 2019, Debtor accrued for post-petition re-organization fees based upon an estimate of fees incurred to date.

⁽⁶⁾ All balances at December 31st, 2019 are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, balances for subsequent months have and will fluctuate.

Monthly Operating Report
ACCRUAL BASIS-2

CASE NAME:	Highland Capital Management, LP	
CASE NUMBER:	19-12239-CSS	

Income Statement ¹
(in thousands)

	Date	Filing to Year Ended ⁽⁴⁾	Month ended ⁽⁴⁾	Filing to date ⁽⁴⁾
	10/16/19 - 10/31/19	2019	11/30/2020	
Revenue:				
Management fees	975	4,528	1,528	22,641
Shared services fees	283	1,588	579	8,465
Other income	99	1,582	296	5,373
Total operating revenue	1,357	7,697	2,403	36,479
Operating expenses:				
Compensation and benefits ⁽⁵⁾	997	1,498	1,626	19,038
Professional services	256	64	273	2,657
Investment research and consulting	10	266	4	969
Marketing and advertising expense	-	370	(65)	463
Depreciation expense	82	244	76	1,092
Bad debt expense reserve	-	8,410	124	9,839
Other operating expenses	201	1,265	539	5,647
Total operating expenses	1,545	12,118	2,577	39,706
Operating income/(loss)	(188)	(4,421)	(174)	(3,227)
Other income/expense:				
Interest income	250	1,230	481	6,602
Interest expense	(107)	(286)	(21)	(718)
Reserve against notes receivable	-	(57,963)	-	(57,963)
Re-org related expenses ⁽²⁾	-	(5,547)	(2,738)	(32,876)
Independent director fees	-	-	(210)	(2,187)
Other income/expense	32	32	(1)	(170)
Total other income/expense	175	(62,534)	(2,490)	(87,312)
Net realized gains/(losses) on investments	339	618	(4,819)	(30,030)
Net change in unrealized gains/(losses) of investments ⁽³⁾	2,654	(955)	5,143	(36,384)
	2,993	(337)	324	(66,414)
Net earnings/(losses) from equity method investees ⁽³⁾	(20)	14,918	(391)	(73,925)
Net income/(loss)	\$ 2,959	\$ (52,374)	\$ (2,732)	\$ (230,878)

(1) Note on accruals: expenses recorded in the Income Statement reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices.

(2) Debtor funded various retainers totaling \$790k prior to the petition date, which were entirely expensed as of the petition date.

(3) Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

(4) All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, operating results will change as these entries are made.

(5) There are additional compensation accrual amounts of \$5.7mm that are not accounted for as of the report date.

Monthly Operating Report
ACCRUAL BASIS-3A

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

	FILING TO YEAR END 2019	QUARTER 1	QUARTER 2	QUARTER 3	OCTOBER	NOVEMBER
CASH RECEIPTS AND DISBURSEMENTS						
1. CASH - BEGINNING OF MONTH	\$ 2,554,230	\$ 9,501,409	\$ 12,532,467	\$ 14,993,872	\$ 5,887,813	\$ 8,752,728
RECEIPTS FROM OPERATIONS						
2. OTHER OPERATING RECEIPTS	\$ 1,862,757	\$ 1,379,338	\$ 2,983,221	\$ 2,259,736	\$ 598,804	\$ 1,568,241
3 MANAGEMENT FEES AND OTHER RELATED RECEIPTS	\$ 3,156,742	\$ 7,555,297	\$ 6,179,437	\$ 5,575,680	\$ 1,367,428	\$ 5,473,112
COLLECTION OF ACCOUNTS RECEIVABLE						
4 PREPETITION	\$ 3,593,108	\$ 76,569	\$ 3,727	\$ -	\$ -	\$ 197,173
5 POSTPETITION ¹	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6 TOTAL OPERATING RECEIPTS	\$ 8,612,608	\$ 9,011,204	\$ 9,166,385	\$ 7,835,415	\$ 1,966,232	\$ 7,238,525
NON-OPERATING RECEIPTS						
THIRD PARTY FUND ACTUAL/EXPECTED DISTRIBUTIONS						
7	\$ 423,468	\$ 18,992,786	\$ 797,571	\$ 610,254	\$ -	\$ 289,873
8 DIVS, PAYDOWNS, MISC FROM INVESTMENT ASSETS	\$ 1,338,069	\$ 477,479	\$ 74,376	\$ 5,311	\$ 1,242	\$ 1,244
9 OTHER (ATTACH LIST)	\$ 3,390,286	\$ 1,407,103	\$ 10,010,000	\$ 8,817,099	\$ 3,269,000	\$ 2,623,121
10 TOTAL NON-OPERATING RECEIPTS	\$ 5,151,822	\$ 20,877,369	\$ 10,881,947	\$ 9,432,664	\$ 3,270,242	\$ 2,914,237
11 TOTAL RECEIPTS	\$ 13,764,430	\$ 29,888,573	\$ 20,048,331	\$ 17,268,080	\$ 5,236,475	\$ 10,152,762
12 TOTAL CASH AVAILABLE				\$ 32,261,951	\$ 11,124,288	\$ 18,905,490
OPERATING DISBURSEMENTS						
13 PAYROLL, BENEFITS, AND TAXES + EXP REIMB	\$ 3,776,446	\$ 8,825,042	\$ 4,886,314	\$ 8,806,880	\$ 1,347,709	\$ 1,602,768
14 SINGAPORE SERVICE FEES	\$ 95,118	\$ 58,129	\$ 2,965	\$ -	\$ 10,547	\$ -
15 HCM LATIN AMERICA	\$ 200,000	\$ 100,000	\$ -	\$ -	\$ -	\$ -
16 THIRD PARTY FUND CAPITAL CALL OBLIGATION	\$ 1,426,987	\$ 7,812,469	\$ 3,087,163	\$ 979,631	\$ 110,220	\$ 722,194
17 UTILITIES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
18 INSURANCE	\$ -	\$ 533,940	\$ 376,376	\$ 163,400	\$ -	\$ -
19 INVENTORY PURCHASES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
20 VEHICLE EXPENSES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
21 TRAVEL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
22 ENTERTAINMENT	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
23 REPAIRS & MAINTENANCE	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
24 SUPPLIES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
25 ADVERTISING	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
26 OTHER (ATTACH LIST)	\$ 1,318,700	\$ 3,283,898	\$ 3,195,054	\$ 3,633,331	\$ 653,828	\$ 1,022,221
27 TOTAL OPERATING DISBURSEMENTS	\$ 6,817,251	\$ 20,613,478	\$ 11,547,870	\$ 13,583,243	\$ 2,122,305	\$ 3,347,183
REORGANIZATION EXPENSES						
28 PROFESSIONAL FEES	\$ -	\$ 5,460,546	\$ 5,572,032	\$ 11,551,682	\$ 39,255	\$ 1,731,613
29 U.S. TRUSTEE FEES	\$ -	\$ 68,173	\$ 167,025	\$ 277,924	\$ -	\$ 250,000
30 OTHER (ATTACH LIST)	\$ -	\$ 715,317	\$ 300,000	\$ 961,289	\$ 210,000	\$ 210,000
31 TOTAL REORGANIZATION EXPENSES	\$ -	\$ 6,244,037	\$ 6,039,057	\$ 12,790,896	\$ 249,255	\$ 2,191,613
32 TOTAL DISBURSEMENTS	\$ 6,817,251	\$ 26,857,515	\$ 17,586,927	\$ 26,374,138	\$ 2,371,560	\$ 5,538,796
33 NET CASH FLOW	\$ 6,947,179	\$ 3,031,058	\$ 2,461,404	\$ (9,106,059)	\$ 2,864,915	\$ 4,613,966
34 CASH - END OF MONTH	\$ 9,501,409	\$ 12,532,467	\$ 14,993,872	\$ 5,887,813	\$ 8,752,728	\$ 13,366,694

1 All postpetition receipts are included in line 3, Management Fees and Other Related Receipts.

Monthly Operating Report
ACCRUAL BASIS-3B

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

OPERATING RECEIPTS - OTHER

Date	Amount	Type
11/12/2020	2,623,121	SSP Loan

OPERATING DISBURSMENTS - OTHER

Date	Amount	Vendor
11/2/2020	30,820	Third Party Consultant
11/2/2020	159,061	Crescent TC Investors LP
11/4/2020	46,292	East West Visa Payment
11/6/2020	471	UPS Supply Chain Solutions
11/6/2020	600	Action Shred of Texas
11/6/2020	1,019	GRUBHUB for Work
11/6/2020	1,443	S&P Global Market Intelligence
11/6/2020	1,554	Canteen Vending Services
11/6/2020	2,466	Thomson West
11/6/2020	4,074	Concur Technologies, Inc.
11/6/2020	4,996	Oak Cliff Office Products
11/6/2020	5,885	ABM
11/6/2020	14,520	Third Party Consultant
11/6/2020	18,042	Siepe Software, LLC
11/6/2020	31,388	Centroid
11/6/2020	35,200	Intex Solutions, Inc.
11/6/2020	47,471	Houlihan Lokey
11/6/2020	199,718	Bloomberg Finance LP
11/6/2020	446	Ace Parking Management Inc.
11/10/2020	6,190	TW Telecom Holdings, Ilc
11/10/2020	53,123	John R Ames, CTA
11/10/2020	2,669	Iron Mountain Records Management
11/13/2020	4,591	Third Party Consultant
11/13/2020	95,940	Bloomberg Finance LP
11/13/2020	6,271	Intelligent Discovery Solutions, Inc.
11/16/2020	118	Arkadin, Inc.
11/16/2020	224	American Solutions for Business
11/16/2020	273	UPS Supply Chain Solutions
11/16/2020	508	Verity Group
11/16/2020	1,160	Canteen Vending Services
11/16/2020	1,335	GRUBHUB for Work
11/16/2020	2,129	NYSE MARKET, INC
11/16/2020	5,391	ICE Data Pricing & Reference Data, LLC
11/16/2020	7,995	Intralinks
11/16/2020	11,496	KPMG LLP
11/17/2020	2,092	Zayo Group, LLC
11/17/2020	971	EastWest Bank
11/19/2020	825	Xerox Corporation
11/20/2020	138	AT&T
11/20/2020	4,629	Liberty Life Assurance Company of Boston - Group Benefits
11/20/2020	15,250	HE Peoria Place
11/20/2020	12,500	Bloomberg Finance LP
11/20/2020	549	Pitney Bowes Financial Services LLC
11/20/2020	32	Pitney Bowes Financial Services LLC
11/20/2020	32	Pitney Bowes Financial Services LLC
11/20/2020	2,845	AT&T
11/20/2020	790	AT&T
11/20/2020	870	AT&T
11/20/2020	7,251	AT&T
11/23/2020	11,888	Flexential Colorado Corp.
11/23/2020	7,500	MacroMavens, LLC
11/23/2020	1,375	Canteen Vending Services
11/23/2020	146	Secured Access Systems, LLC
11/23/2020	289	UPS Supply Chain Solutions
11/23/2020	249	CHASE COURIERS, INC
11/23/2020	225	Four Seasons Plantscaping, LLC
11/23/2020	481	DTCC ITP LLC
11/23/2020	131,149	Siepe Services, LLC
11/25/2020	1,422	GRUBHUB for Work
11/25/2020	2,845	AT&T
11/30/2020	11,000	Third Party Consultant
	1,022,221	

REORGANIZATION EXPENSES - OTHER

Date	Amount	Description
11/2/2020	30,000	Dubel & Associates, L.L.C.
11/2/2020	150,000	J.P. Seery & Co. LLC
11/2/2020	30,000	Nelms and Associates
	210,000	

Monthly Operating Report
ACCRUAL BASIS-4

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MGMT FEE RECEIVABLE AGING ²			August ³	September ³	October ³	November ³
1.	0-30		\$1,768,818	\$2,577,696	\$3,148,887	\$1,495,877
2.	31-60		\$772,384		\$807,441	
3.	61-90			\$772,384		
4.	91+				\$746,913	
5.	TOTAL MGMT FEE RECEIVABLE		\$ 2,541,202	\$ 3,350,080	\$ 4,703,241	\$1,495,877
6.	AMOUNT CONSIDERED UNCOLLECTIBLE					
7.	MGMT FEE RECEIVABLE (NET)		\$ 2,541,202	\$ 3,350,080	\$ 4,703,241	\$1,495,877

AGING OF POSTPETITION TAXES AND PAYABLES			MONTH: November 2020		
TAXES PAYABLE	0-30 DAYS	31-60 DAYS	61-90 DAYS	91+ DAYS	TOTAL
1. FEDERAL					\$0
2. STATE					\$0
3. LOCAL					\$0
4. OTHER (ATTACH LIST)					\$0
5. TOTAL TAXES PAYABLE	\$0	\$0	\$0	\$0	\$0
6. ACCOUNTS PAYABLE	\$625,935	\$6,277	\$17,276	\$100,881	\$750,368

STATUS OF POSTPETITION TAXES ¹		MONTH: November 2020		
FEDERAL	BEGINNING TAX LIABILITY	AMOUNT WITHHELD AND/OR ACCRUED	AMOUNT PAID	ENDING TAX LIABILITY
1. WITHHOLDING				\$0
2. FICA-EMPLOYEE				\$0
3. FICA-EMPLOYER				\$0
4. UNEMPLOYMENT				\$0
5. INCOME				\$0
6. OTHER (ATTACH LIST)				\$0
7. TOTAL FEDERAL TAXES	\$0	\$0	\$0	\$0
STATE AND LOCAL				
8. WITHHOLDING				\$0
9. SALES				\$0
10. EXCISE				\$0
11. UNEMPLOYMENT				\$0
12. REAL PROPERTY	\$0	\$0	\$0	\$0
13. PERSONAL PROPERTY				\$0
14. OTHER (ATTACH LIST)				\$0
15. TOTAL STATE & LOCAL	\$0	\$0	\$0	\$0
16. TOTAL TAXES	\$0	\$0	\$0	\$0

1 The Debtor funds all state and federal employment taxes to Paylocity, who files all required federal and state related employment reports and withholdings.

2 Aging based on when management fee is due and payable.

3 All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process.

Monthly Operating Report
ACCRUAL BASIS-5

CASE NAME: Highland Capital Management

CASE NUMBER: 19-34054

MONTH: November2020

BANK RECONCILIATIONS

	Account #1	Account #2	Account #3	Account #4	Account #5	Account #6	
A. BANK:	East West Bank	East West Bank	Maxim Group	Jefferies LLC	Nexbank	East West Bank	TOTAL
B. ACCOUNT NUMBER:	x4686	x4693	x1885	x0932	x5891	x5848	
C. PURPOSE (TYPE):	Operating	Insurance	Brokerage	Brokerage	CD	Prepaid Card	
1. BALANCE PER BANK STATEMENT ¹	\$ 13,124,581	\$ 3,842	\$ 30	\$ -	\$ 138,190	\$ 100,068	\$ 13,366,710
2. ADD: TOTAL DEPOSITS NOT CREDITED							\$ -
3. SUBTRACT: OUTSTANDING CHECKS							\$ -
4. OTHER RECONCILING ITEMS							\$ -
5. MONTH END BALANCE PER BOOKS	\$ 13,124,581	\$ 3,842	\$ 30	\$ -	\$ 138,190	\$ 100,068	\$ 13,366,710
6. NUMBER OF LAST CHECK WRITTEN	100510	n/a	n/a	n/a	n/a	n/a	

INVESTMENT ACCOUNTS

BANK, ACCOUNT NAME & NUMBER	DATE OF PURCHASE	TYPE OF INSTRUMENT	PURCHASE PRICE	CURRENT VALUE			
7.							
8.							
9.							
10.							
11. TOTAL INVESTMENTS			\$0				\$0

CASH

12. CURRENCY ON HAND	\$0
13. TOTAL CASH - END OF MONTH	\$13,366,710

1 Account x6342 is now closed.

App. 375

Monthly Operating Report
ACCRUAL BASIS-6

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: November 2020

PAYMENTS TO INSIDERS AND PROFESSIONALS

INSIDERS				
NAME		TYPE OF PAYMENT	AMOUNT PAID	TOTAL PAID POST PETITION
1	Frank Waterhouse	Salary	\$33,333	\$427,083
2	Frank Waterhouse	Expense Reimbursement	\$384	\$6,605
3	Scott Ellington	Salary	\$37,500	\$506,250
4	Scott Ellington	Expense Reimbursement	\$260	\$6,598
5	James Dondero	Salary	\$0	\$129,972
6	James Dondero	Expense Reimbursement ¹	\$0	\$16,918
7	Thomas Surgent	Salary	\$33,333	\$450,000
8	Thomas Surgent	Expense Reimbursement	\$400	\$4,981
9	Trey Parker	Salary	\$0	\$131,250
10	Trey Parker	Expense Reimbursement	\$0	\$6,212
TOTAL PAYMENTS TO INSIDERS			\$105,210	\$1,685,869

¹ The total amount of reimbursements during the reporting month also included \$3,129 for use of the credit card by the Debtor for office related expenses such as subscriptions and IT equipment/software.

PROFESSIONALS ²						
NAME		DATE OF MONTHLY FEE APPLICATION	AMOUNT APPROVED	AMOUNT PAID	TOTAL PAID TO DATE	TOTAL INCURRED & UNPAID
1.	Kurtzman Carson Consultants LLC		41,435	41,435	573,957	54,170
2.	Sidley Austin LLP		511,998	511,998	6,319,089	821,421
3.	Young Conaway Stargatt & Taylor LLP		-	-	281,156	-
4.	FTI Consulting, Inc.		382,499	382,499	3,989,791	425,593
5.	Pachulski Stang Ziehl & Jones LLP		541,680	541,680	8,976,900	970,463
6	Hayward & Associates PLLC		4,871	4,871	261,283	67,488
7	Development Specialists, Inc.		249,129	249,129	2,600,354	249,129
8	Foley & Lardner LLP		-	-	464,294	132,045
9	Mercer (US) Inc.		-	-	170,284	-
10	Wilmer Cutler Pickering Hale and Dorr LLP		-	-	618,643	
11	Meta-e Discovery LLC		-	-	165,000	
TOTAL PAYMENTS TO PROFESSIONALS				1,731,613	24,420,749	2,720,310

² Does not include payments to ordinary course professionals.

POSTPETITION STATUS OF SECURED NOTES, LEASES PAYABLE AND ADEQUATE PROTECTION PAYMENTS

NAME OF CREDITOR		SCHEDULED MONTHLY PAYMENTS DUE	AMOUNTS PAID DURING MONTH	TOTAL UNPAID POSTPETITION
1.	Crescent TC Investors LP (rent portion only)	130,364	130,364	-
2.				
3.				
4.				
5.				
6.	TOTAL	130,364	\$130,364	\$0

Monthly Operating Report
ACCRUAL BASIS-7

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: November 2020

QUESTIONNAIRE

	YES	NO
1. HAVE ANY ASSETS BEEN SOLD OR TRANSFERRED OUTSIDE THE NORMAL COURSE OF BUSINESS THIS REPORTING PERIOD?		x
2. HAVE ANY FUNDS BEEN DISBURSED FROM ANY ACCOUNT OTHER THAN A DEBTOR IN POSSESSION ACCOUNT?		x
3. ARE ANY POSTPETITION RECEIVABLES (ACCOUNTS, NOTES, OR LOANS) DUE FROM RELATED PARTIES?	x	
4. HAVE ANY PAYMENTS BEEN MADE ON PREPETITION LIABILITIES THIS REPORTING PERIOD?		x
5. HAVE ANY POSTPETITION LOANS BEEN RECEIVED BY THE DEBTOR FROM ANY PARTY?		x
6. ARE ANY POSTPETITION PAYROLL TAXES PAST DUE?		x
7. ARE ANY POSTPETITION STATE OR FEDERAL INCOME TAXES PAST DUE?		x
8. ARE ANY POSTPETITION REAL ESTATE TAXES PAST DUE?		x
9. ARE ANY OTHER POSTPETITION TAXES PAST DUE?		x
10. ARE ANY AMOUNTS OWED TO POSTPETITION CREDITORS DELINQUENT?		x
11. HAVE ANY PREPETITION TAXES BEEN PAID DURING THE REPORTING PERIOD?		x
12. ARE ANY WAGE PAYMENTS PAST DUE?		x

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "YES," PROVIDE A DETAILED EXPLANATION OF EACH ITEM. ATTACH ADDITIONAL SHEETS IF NECESSARY.

3 Debtor generates fee income and other receipts from various related parties in normal course, see cash management motion for further discussion.

INSURANCE

	YES	NO
1. ARE WORKER'S COMPENSATION, GENERAL LIABILITY AND OTHER NECESSARY INSURANCE COVERAGES IN EFFECT?	x	
2. ARE ALL PREMIUM PAYMENTS PAID CURRENT?	x	
3. PLEASE ITEMIZE POLICIES BELOW.		

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "NO," OR IF ANY POLICIES HAVE BEEN CANCELLED OR NOT RENEWED DURING THIS REPORTING PERIOD, PROVIDE AN EXPLANATION BELOW. ATTACH ADDITIONAL SHEETS IF NECESSARY.

INSTALLMENT PAYMENTS

TYPE OF POLICY	CARRIER	PERIOD COVERED	PAYMENT AMOUNT & FREQUENCY

EXHIBIT 15

Monthly Operating Report (December 2020)

**Monthly Operating Report
ACCRUAL BASIS**

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054
JUDGE:	Stacey Jernigan

**UNITED STATES BANKRUPTCY COURT
NORTHERN & EASTERN DISTRICTS OF TEXAS
REGION 6**

MONTHLY OPERATING REPORT

MONTH ENDING: December 2020
MONTH YEAR

IN ACCORDANCE WITH TITLE 28, SECTION 1746, OF THE UNITED STATES CODE, I DECLARE UNDER PENALTY OF PERJURY THAT I HAVE EXAMINED THE FOLLOWING MONTHLY OPERATING REPORT (ACCRUAL BASIS-1 THROUGH ACCRUAL BASIS-7) AND THE ACCOMPANYING ATTACHMENTS AND, TO THE BEST OF MY KNOWLEDGE, THESE DOCUMENTS ARE TRUE, CORRECT, AND COMPLETE. DECLARATION OF THE PREPARER (OTHER THAN RESPONSIBLE PARTY) IS BASED ON ALL INFORMATION OF WHICH PREPARER HAS ANY KNOWLEDGE.

RESPONSIBLE PARTY:


ORIGINAL SIGNATURE OF RESPONSIBLE PARTY

Chief Restructuring Officer/ Chief Executive Officer
TITLE

James Seery
PRINTED NAME OF RESPONSIBLE PARTY

DATE

PREPARER:


ORIGINAL SIGNATURE OF PREPARER

Chief Financial Officer
TITLE

Frank Waterhouse
PRINTED NAME OF PREPARER

2.10.21
DATE



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Monthly Operating Report
ACCRUAL BASIS-1

CASE NAME:	Highland Capital Management, LP
CASE NUMBER:	19-12239-CSS

Comparative Balance Sheet
(in thousands)

	10/15/2019	12/31/2019 ⁽⁶⁾	12/31/2020 ⁽⁶⁾
Assets			
Cash and cash equivalents	2,529	9,501	12,651
Investments, at fair value ⁽³⁾	232,620	232,820	109,211
Equity method investees ⁽³⁾	161,819	183,529	103,174
Management and incentive fee receivable	2,579	1,929	2,461
Fixed assets, net	3,754	3,521	2,594
Due from affiliates ⁽¹⁾	151,901	146,276	152,449
Reserve against notes receivable		(57,963)	(61,039)
Other assets	11,311	11,463	8,258
Total assets	<u><u>\$ 566,513</u></u>	<u><u>\$ 531,076</u></u>	<u><u>\$ 329,758</u></u>
Liabilities and Partners' Capital			
Pre-petition accounts payable ⁽⁴⁾	1,176	1,141	1,077
Post-petition accounts payable ⁽⁴⁾	-	2,042	900
Secured debt:			
Frontier	5,195	5,195	5,195
Jefferies	30,328	30,020	-
Accrued expenses and other liabilities ⁽⁴⁾	59,203	63,275	60,446
Accrued re-organization related fees ⁽⁵⁾	-	5,547	5,795
Claim accrual ⁽²⁾	73,997	73,997	73,997
Partners' capital	396,614	349,857	182,347
Total liabilities and partners' capital	<u><u>\$ 566,513</u></u>	<u><u>\$ 531,076</u></u>	<u><u>\$ 329,758</u></u>

⁽¹⁾ Includes various notes receivable at carrying value, except note due from Hunter Mountain Investment Trust which is fully reserved against (\$61M reserve). Fair value has not been determined with respect to any of the notes.

⁽²⁾ Uncontested portion of Redeemer claim less applicable offsets. Potential for additional liability based on future events. No interest has been accrued beyond petition date. No additional accruals will be made on settlement claims until further approval by the court.

⁽³⁾ Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

⁽⁴⁾ Note on accruals: expenses recorded in Accounts Payable and Accrued Expenses and Other Liabilities reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices. For balance sheet dates other than the Petition Date, amounts include both pre-petition and post-petition liabilities.

⁽⁵⁾ Beginning December 31st, 2019, Debtor accrued for post-petition re-organization fees based upon an estimate of fees incurred to date.

⁽⁶⁾ All balances at December 31st, 2020 are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, balances for subsequent months have and will fluctuate.

Monthly Operating Report
ACCRUAL BASIS-2

CASE NAME:	Highland Capital Management, LP	
CASE NUMBER:	19-12239-CSS	

Income Statement¹
(in thousands)

	Date	Filing to Year Ended ⁽⁴⁾	Month ended ⁽⁴⁾	Filing to date ⁽⁴⁾
	10/16/19 - 10/31/19	2019	12/31/2020	
Revenue:				
Management fees	975	4,528	1,690	24,331
Shared services fees	283	1,588	605	9,070
Other income	99	1,582	3,022	8,395
Total operating revenue	1,357	7,697	5,317	41,797
Operating expenses:				
Compensation and benefits	997	1,498	3,101	22,139
Professional services	256	64	344	3,001
Investment research and consulting	10	266	4	974
Marketing and advertising expense	-	370	(22)	441
Depreciation expense	82	244	76	1,168
Bad debt expense reserve	-	8,410	128	9,968
Other operating expenses	201	1,265	466	6,112
Total operating expenses	1,545	12,118	4,097	43,803
Operating income/(loss)	(188)	(4,421)	1,220	(2,006)
Other income/expense:				
Interest income	250	1,230	457	7,059
Interest expense	(107)	(286)	(22)	(740)
Reserve against notes receivable	-	(57,963)	-	(57,963)
Re-org related expenses ⁽²⁾	-	(5,547)	(1,657)	(34,534)
Independent director fees	-	-	(420)	(2,607)
Other income/expense	32	32	(1)	(171)
Total other income/expense	175	(62,534)	(1,643)	(88,956)
Net realized gains/(losses) on investments	339	618	896	(29,134)
Net change in unrealized gains/(losses) of investments ⁽³⁾	2,654	(955)	3,717	(32,667)
	2,993	(337)	4,614	(61,801)
Net earnings/(losses) from equity method investees ⁽³⁾	(20)	14,918	8,321	(65,604)
Net income/(loss)	\$ 2,959	\$ (52,374)	\$ 12,511	\$ (218,367)

(1) Note on accruals: expenses recorded in the Income Statement reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices.

(2) Debtor funded various retainers totaling \$790k prior to the petition date, which were entirely expensed as of the petition date.

(3) Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

(4) All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, operating results will change as these entries are made.

Monthly Operating Report
ACCRUAL BASIS-3A

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

	FILING TO YEAR END 2019	QUARTER 1	QUARTER 2	QUARTER 3	DECEMBER	QUARTER 4
CASH RECEIPTS AND DISBURSEMENTS						
1. CASH - BEGINNING OF MONTH	\$ 2,554,230	\$ 9,501,409	\$ 12,532,467	\$ 14,993,872	\$ 13,366,694	\$ 5,887,813
RECEIPTS FROM OPERATIONS						
2. OTHER OPERATING RECEIPTS	\$ 1,862,757	\$ 1,379,338	\$ 2,983,221	\$ 2,259,736	\$ 619,275	\$ 2,786,320
3. MANAGEMENT FEES AND OTHER RELATED RECEIPTS	\$ 3,156,742	\$ 7,555,297	\$ 6,179,437	\$ 5,575,680	\$ 131,818	\$ 6,972,357
COLLECTION OF ACCOUNTS RECEIVABLE						
4. PREPETITION	\$ 3,593,108	\$ 76,569	\$ 3,727	\$ -	\$ -	\$ 197,173
5. POSTPETITION ¹	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6. TOTAL OPERATING RECEIPTS	\$ 8,612,608	\$ 9,011,204	\$ 9,166,385	\$ 7,835,415	\$ 751,093	\$ 9,955,850
NON-OPERATING RECEIPTS						
7. THIRD PARTY FUND ACTUAL/EXPECTED DISTRIBUTIONS	\$ 423,468	\$ 18,992,786	\$ 797,571	\$ 610,254	\$ 1,744,327	\$ 2,034,200
8. DIVS, PAYDOWNS, MISC FROM INVESTMENT ASSETS	\$ 1,338,069	\$ 477,479	\$ 74,376	\$ 5,311	\$ 2,987,274	\$ 2,989,760
9. OTHER (ATTACH LIST)	\$ 3,390,286	\$ 1,407,103	\$ 10,010,000	\$ 8,817,099	\$ 1,183,356	\$ 7,075,476
10. TOTAL NON-OPERATING RECEIPTS	\$ 5,151,822	\$ 20,877,369	\$ 10,881,947	\$ 9,432,664	\$ 5,914,957	\$ 12,099,436
11. TOTAL RECEIPTS	\$ 13,764,430	\$ 29,888,573	\$ 20,048,331	\$ 17,268,080	\$ 6,666,050	\$ 22,055,287
12. TOTAL CASH AVAILABLE				\$ 32,261,951	\$ 20,032,744	\$ 27,943,100
OPERATING DISBURSEMENTS						
13. PAYROLL, BENEFITS, AND TAXES + EXP REIMB	\$ 3,776,446	\$ 8,825,042	\$ 4,886,314	\$ 8,806,880	\$ 1,330,329	\$ 4,280,805
14. SINGAPORE SERVICE FEES	\$ 95,118	\$ 58,129	\$ 2,965	\$ -	\$ -	\$ 10,547
15. HCM LATIN AMERICA	\$ 200,000	\$ 100,000	\$ -	\$ -	\$ -	\$ -
16. THIRD PARTY FUND CAPITAL CALL OBLIGATION	\$ 1,426,987	\$ 7,812,469	\$ 3,087,163	\$ 979,631	\$ 908,675	\$ 1,741,089
17. UTILITIES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
18. INSURANCE	\$ -	\$ 533,940	\$ 376,376	\$ 163,400	\$ -	\$ -
19. INVENTORY PURCHASES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
20. VEHICLE EXPENSES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
21. TRAVEL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
22. ENTERTAINMENT	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
23. REPAIRS & MAINTENANCE	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
24. SUPPLIES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
25. ADVERTISING	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
26. OTHER (ATTACH LIST)	\$ 1,318,700	\$ 3,283,898	\$ 3,195,054	\$ 3,633,331	\$ 928,252	\$ 2,604,301
27. TOTAL OPERATING DISBURSEMENTS	\$ 6,817,251	\$ 20,613,478	\$ 11,547,870	\$ 13,583,243	\$ 3,167,255	\$ 8,636,743
REORGANIZATION EXPENSES						
28. PROFESSIONAL FEES	\$ -	\$ 5,460,546	\$ 5,572,032	\$ 11,551,682	\$ 4,004,983	\$ 5,775,852
29. U.S. TRUSTEE FEES	\$ -	\$ 68,173	\$ 167,025	\$ 277,924	\$ -	\$ 250,000
30. OTHER (ATTACH LIST)	\$ -	\$ 715,317	\$ 300,000	\$ 961,289	\$ 210,000	\$ 630,000
31. TOTAL REORGANIZATION EXPENSES	\$ -	\$ 6,244,037	\$ 6,039,057	\$ 12,790,896	\$ 4,214,983	\$ 6,655,852
32. TOTAL DISBURSEMENTS	\$ 6,817,251	\$ 26,857,515	\$ 17,586,927	\$ 26,374,138	\$ 7,382,239	\$ 15,292,594
33. NET CASH FLOW	\$ 6,947,179	\$ 3,031,058	\$ 2,461,404	\$ (9,106,059)	\$ (716,189)	\$ 6,762,692
34. CASH - END OF MONTH	\$ 9,501,409	\$ 12,532,467	\$ 14,993,872	\$ 5,887,813	\$ 12,650,505	\$ 12,650,505

1 All postpetition receipts are included in line 3, Management Fees and Other Related Receipts.

Monthly Operating Report
ACCRUAL BASIS-3B

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

OPERATING RECEIPTS - OTHER

Date	Amount	Type
12/2/2020	1,183,356	Trussway

OPERATING DISBURSMENTS - OTHER

Date	Amount	Vendor
12/1/2020	42,599	Third Party Consultant
12/1/2020	158,696	Crescent TC Investors LP
12/4/2020	53	Chase Couriers
12/4/2020	386	ProStar Services, Inc
12/4/2020	413	UPS Supply Chain Solutions
12/4/2020	450	Action Shred of Texas
12/4/2020	511	CDW Direct
12/4/2020	1,518	GRUBHUB for Work
12/4/2020	2,036	Canteen Vending Services
12/4/2020	2,558	Markit WSO Corporation
12/4/2020	4,064	Third Party Consultant
12/4/2020	5,885	ABM
12/4/2020	6,866	Willis of Texas, Inc.
12/4/2020	15,000	Centroid
12/4/2020	15,718	Ace Parking Management Inc.
12/4/2020	18,042	Siepe Software, LLC
12/4/2020	35,200	Intex Solutions, Inc.
12/4/2020	144,229	Siepe Services, LLC
12/4/2020	14	PCA-Valet, Inc
12/7/2020	1,750	Bermuda Monetary Authority
12/8/2020	549	Pitney Bowes Financial Services
12/8/2020	6,188	TW Telecom Holdings, Ilc
12/9/2020	2,669	Iron Mountain Records Management
12/9/2020	14,854	Visa Payment
12/10/2020	62,900	Robert Half Legal
12/11/2020	83	Arkadin, Inc.
12/11/2020	199	UPS Supply Chain Solutions
12/11/2020	216	Ace Parking Management Inc.
12/11/2020	363	GRUBHUB for Work
12/11/2020	1,442	Canteen Vending Services
12/11/2020	2,022	NYSE Market, Inc
12/11/2020	2,466	Thomson West
12/11/2020	4,060	Concur Technologies, Inc.
12/11/2020	5,081	ICE Data Pricing & Reference Data, LLC
12/11/2020	9,970	Hedgeye Risk Mgmt, LLC
12/11/2020	31,858	Centroid
12/11/2020	107	ICE Data Pricing & Reference Data, LLC
12/11/2020	10,564	Pricewaterhouse Coopers, LLP
12/14/2020	110	FINRA
12/14/2020	40	FINRA
12/15/2020	22,635	Employee expense reimbursement
12/17/2020	2,092	Zayo Group, LLC
12/17/2020	532	DirecTV
12/18/2020	138	AT&T
12/18/2020	512	DTCC ITP LLC
12/18/2020	459	Verity Group
12/18/2020	176	UPS Supply Chain Solutions
12/18/2020	1,473	Canteen Vending Services
12/18/2020	2,845	AT&T
12/18/2020	16,016	Ace Parking Management Inc.
12/18/2020	11,693	Flexential Colorado Corp.
12/18/2020	225	Four Seasons Landscaping, LLC
12/18/2020	145,258	Siepe Services, LLC
12/21/2020	898	East West Bank
12/23/2020	36,000	Experienced Advisory Consultants LLC
12/24/2020	931	Xerox Corporation
12/31/2020	164	UPS Supply Chain Solutions
12/31/2020	450	Action Shred of Texas
12/31/2020	482	Four Seasons Landscaping, LLC
	928,252	

REORGANIZATION EXPENSES - OTHER

Date	Amount	Description
12/1/2020	30,000	Dubel & Associates, L.L.C.
12/1/2020	150,000	J.P. Seery & Co. LLC
12/1/2020	30,000	Nelms and Associates
	210,000	

Monthly Operating Report
ACCRUAL BASIS-4

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MGMT FEE RECEIVABLE AGING ²		September ³	October ³	November ³	December ³
1.	0-30	\$2,577,696	\$3,148,887	\$902,434	\$2,460,863
2.	31-60		\$807,441		
3.	61-90	\$772,384			
4.	91+		746,913		
5.	TOTAL MGMT FEE RECEIVABLE	\$ 3,350,080	\$ 4,703,241	\$ 902,434	\$2,460,863
6.	AMOUNT CONSIDERED UNCOLLECTIBLE				
7.	MGMT FEE RECEIVABLE (NET)	\$ 3,350,080	\$ 4,703,241	\$ 902,434	\$2,460,863

AGING OF POSTPETITION TAXES AND PAYABLES			MONTH: December 2020		
TAXES PAYABLE	0-30 DAYS	31-60 DAYS	61-90 DAYS	91+ DAYS	TOTAL
1. FEDERAL					\$0
2. STATE					\$0
3. LOCAL					\$0
4. OTHER (ATTACH LIST)					\$0
5. TOTAL TAXES PAYABLE	\$0	\$0	\$0	\$0	\$0
6. ACCOUNTS PAYABLE	\$556,609	\$179,791	\$37,722	\$126,257	\$900,378

STATUS OF POSTPETITION TAXES ¹		MONTH: December 2020		
	BEGINNING TAX LIABILITY	AMOUNT WITHHELD AND/OR ACCRUED	AMOUNT PAID	ENDING TAX LIABILITY
FEDERAL				
1. WITHHOLDING				\$0
2. FICA-EMPLOYEE				\$0
3. FICA-EMPLOYER				\$0
4. UNEMPLOYMENT				\$0
5. INCOME				\$0
6. OTHER (ATTACH LIST)				\$0
7. TOTAL FEDERAL TAXES	\$0	\$0	\$0	\$0
STATE AND LOCAL				
8. WITHHOLDING				\$0
9. SALES				\$0
10. EXCISE				\$0
11. UNEMPLOYMENT				\$0
12. REAL PROPERTY	\$0	\$0	\$0	\$0
13. PERSONAL PROPERTY				\$0
14. OTHER (ATTACH LIST)				\$0
15. TOTAL STATE & LOCAL	\$0	\$0	\$0	\$0
16. TOTAL TAXES	\$0	\$0	\$0	\$0

- 1 The Debtor funds all state and federal employment taxes to Paylocity, who files all required federal and state related employment reports and withholdings.
- 2 Aging based on when management fee is due and payable.
- 3 All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process.

Monthly Operating Report
 ACCRUAL BASIS-5

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: December 2020

BANK RECONCILIATIONS		Account #1	Account #2	Account #3	Account #4	Account #5	Account #6	TOTAL
A. BANK:	B. ACCOUNT NUMBER:	East West Bank	East West Bank	Maxim Group	Jefferies LLC	Nexbank	East West Bank	
		x4686	x4693	x1885	x0932	x5891	x5848	
C. PURPOSE (TYPE):		Operating	Insurance	Brokerage	Brokerage	CD	Prepaid Card	
1. BALANCE PER BANK STATEMENT ¹		\$ 12,216,465	\$ 195,510	\$ 30	\$ -	\$ 138,448	\$ 100,076	\$ 12,650,529
2. ADD: TOTAL DEPOSITS NOT CREDITED								\$ -
3. SUBTRACT: OUTSTANDING CHECKS								\$ -
4. OTHER RECONCILING ITEMS								\$ -
5. MONTH END BALANCE PER BOOKS		\$ 12,216,465	\$ 195,510	\$ 30	\$ -	\$ 138,448	\$ 100,076	\$ 12,650,529
6. NUMBER OF LAST CHECK WRITTEN		100510	n/a	n/a	n/a	n/a	n/a	

INVESTMENT ACCOUNTS		DATE OF PURCHASE	TYPE OF INSTRUMENT	PURCHASE PRICE	CURRENT VALUE		
BANK, ACCOUNT NAME & NUMBER							
7.							
8.							
9.							
10.							
11. TOTAL INVESTMENTS				\$0			\$0

CASH		
12. CURRENCY ON HAND		\$0
13. TOTAL CASH - END OF MONTH		\$12,650,529

1 Account x6342 is now closed.

Monthly Operating Report
ACCRUAL BASIS-6

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: December 2020

PAYMENTS TO INSIDERS AND PROFESSIONALS

INSIDERS				
	NAME	TYPE OF PAYMENT	AMOUNT PAID	TOTAL PAID POST PETITION
1	Frank Waterhouse	Salary	\$33,333	\$460,417
2	Frank Waterhouse	Expense Reimbursement	\$383	\$6,988
3	Scott Ellington	Salary	\$37,500	\$543,750
4	Scott Ellington	Expense Reimbursement	\$2,728	\$9,327
5	James Dondero	Salary	\$0	\$129,972
6	James Dondero	Expense Reimbursement ¹	\$0	\$16,918
7	Thomas Surgent	Salary	\$33,333	\$483,333
8	Thomas Surgent	Expense Reimbursement	\$5,439	\$10,420
9	Trey Parker	Salary	\$0	\$131,250
10	Trey Parker	Expense Reimbursement	\$0	\$6,212
TOTAL PAYMENTS TO INSIDERS			\$112,717	\$1,798,586

¹ The total amount of reimbursements during the reporting month also included \$360 for use of the credit card by the Debtor for office related subscriptions.

PROFESSIONALS ²						
NAME		DATE OF MONTHLY FEE APPLICATION	AMOUNT APPROVED	AMOUNT PAID	TOTAL PAID TO DATE	TOTAL INCURRED & UNPAID
1.	Kurtzman Carson Consultants LLC		139,664	139,664	713,621	-
2.	Sidley Austin LLP		900,062	900,062	7,219,151	628,987
3.	Young Conaway Stargatt & Taylor LLP		-	-	281,156	-
4.	FTI Consulting, Inc.		368,147	368,147	4,357,938	293,326
5.	Pachulski Stang Ziehl & Jones LLP		1,585,134	1,585,134	10,562,034	1,050,155
6	Hayward & Associates PLLC		43,024	43,024	304,307	16,465
7	Development Specialists, Inc.		476,711	476,711	3,077,065	-
8	Foley & Lardner LLP		-	-	464,294	-
9	Mercer (US) Inc.		-	-	170,284	-
10	Wilmer Cutler Pickering Hale and Dorr LLP		61,768	61,768	680,411	
11	Meta-e Discovery LLC		360,384	360,384	525,384	
TOTAL PAYMENTS TO PROFESSIONALS				3,934,895	28,355,644	1,988,933

² Does not include payments to ordinary course professionals.

POSTPETITION STATUS OF SECURED NOTES, LEASES PAYABLE AND ADEQUATE PROTECTION PAYMENTS

	NAME OF CREDITOR	SCHEDULED MONTHLY PAYMENTS DUE	AMOUNTS PAID DURING MONTH	TOTAL UNPAID POSTPETITION
1.	Crescent TC Investors LP (rent portion only)	130,364	130,364	-
2.				
3.				
4.				
5.				
6.	TOTAL	130,364	\$130,364	\$0

Monthly Operating Report
ACCRUAL BASIS-7

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: December 2020

QUESTIONNAIRE

	YES	NO
1. HAVE ANY ASSETS BEEN SOLD OR TRANSFERRED OUTSIDE THE NORMAL COURSE OF BUSINESS THIS REPORTING PERIOD?		x
2. HAVE ANY FUNDS BEEN DISBURSED FROM ANY ACCOUNT OTHER THAN A DEBTOR IN POSSESSION ACCOUNT?		x
3. ARE ANY POSTPETITION RECEIVABLES (ACCOUNTS, NOTES, OR LOANS) DUE FROM RELATED PARTIES?	x	
4. HAVE ANY PAYMENTS BEEN MADE ON PREPETITION LIABILITIES THIS REPORTING PERIOD?		x
5. HAVE ANY POSTPETITION LOANS BEEN RECEIVED BY THE DEBTOR FROM ANY PARTY?		x
6. ARE ANY POSTPETITION PAYROLL TAXES PAST DUE?		x
7. ARE ANY POSTPETITION STATE OR FEDERAL INCOME TAXES PAST DUE?		x
8. ARE ANY POSTPETITION REAL ESTATE TAXES PAST DUE?		x
9. ARE ANY OTHER POSTPETITION TAXES PAST DUE?		x
10. ARE ANY AMOUNTS OWED TO POSTPETITION CREDITORS DELINQUENT?		x
11. HAVE ANY PREPETITION TAXES BEEN PAID DURING THE REPORTING PERIOD?		x
12. ARE ANY WAGE PAYMENTS PAST DUE?		x

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "YES," PROVIDE A DETAILED EXPLANATION OF EACH ITEM. ATTACH ADDITIONAL SHEETS IF NECESSARY.

3 Debtor generates fee income and other receipts from various related parties in normal course, see cash management motion for further discussion.

INSURANCE

	YES	NO
1. ARE WORKER'S COMPENSATION, GENERAL LIABILITY AND OTHER NECESSARY INSURANCE COVERAGES IN EFFECT?	x	
2. ARE ALL PREMIUM PAYMENTS PAID CURRENT?	x	
3. PLEASE ITEMIZE POLICIES BELOW.		

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "NO," OR IF ANY POLICIES HAVE BEEN CANCELLED OR NOT RENEWED DURING THIS REPORTING PERIOD, PROVIDE AN EXPLANATION BELOW. ATTACH ADDITIONAL SHEETS IF NECESSARY.

INSTALLMENT PAYMENTS			
TYPE OF POLICY	CARRIER	PERIOD COVERED	PAYMENT AMOUNT & FREQUENCY

EXHIBIT 16

Monthly Operating Report (January 2021)

Monthly Operating Report
ACCRUAL BASIS

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054
JUDGE:	Stacey Jernigan

UNITED STATES BANKRUPTCY COURT
NORTHERN & EASTERN DISTRICTS OF TEXAS
REGION 6

MONTHLY OPERATING REPORT

MONTH ENDING: January 2021
MONTH YEAR

IN ACCORDANCE WITH TITLE 28, SECTION 1746, OF THE UNITED STATES CODE, I DECLARE UNDER PENALTY OF PERJURY THAT I HAVE EXAMINED THE FOLLOWING MONTHLY OPERATING REPORT (ACCRUAL BASIS-1 THROUGH ACCRUAL BASIS-7) AND THE ACCOMPANYING ATTACHMENTS AND, TO THE BEST OF MY KNOWLEDGE, THESE DOCUMENTS ARE TRUE, CORRECT, AND COMPLETE. DECLARATION OF THE PREPARER (OTHER THAN RESPONSIBLE PARTY) IS BASED ON ALL INFORMATION OF WHICH PREPARER HAS ANY KNOWLEDGE.

RESPONSIBLE PARTY:

ORIGINAL SIGNATURE OF RESPONSIBLE PARTY

James Seery

PRINTED NAME OF RESPONSIBLE PARTY

Chief Restructuring Officer/ Chief Executive Officer
TITLE

3-15-21

DATE

PREPARER:

ORIGINAL SIGNATURE OF PREPARER

David Klos

PRINTED NAME OF PREPARER

Chief Financial Officer

TITLE

3/15/21

DATE



193405421031500000000001

Monthly Operating Report
ACCRUAL BASIS-1

CASE NAME:	Highland Capital Management, LP
CASE NUMBER:	19-12239-CSS

Comparative Balance Sheet ⁽⁷⁾
(in thousands)

	10/15/2019	12/31/2020 ⁽⁶⁾	1/31/2021
Assets			
Cash and cash equivalents	2,529	12,651	10,651
Investments, at fair value ⁽³⁾⁽⁸⁾	232,620	109,211	142,976
Equity method investees ⁽³⁾	161,819	103,174	105,293
Management and incentive fee receivable	2,579	2,461	2,857
Fixed assets, net	3,754	2,594	2,518
Due from affiliates ⁽¹⁾	151,901	152,449	152,538
Reserve against notes receivable		(61,039)	(61,167)
Other assets	11,311	8,258	8,651
Total assets	\$ 566,513	\$ 329,758	\$ 364,317
Liabilities and Partners' Capital			
Pre-petition accounts payable ⁽⁴⁾	1,176	1,077	1,077
Post-petition accounts payable ⁽⁴⁾	-	900	3,010
Secured debt:			
Frontier	5,195	5,195	5,195
Jefferies	30,328	-	-
Accrued expenses and other liabilities ⁽⁴⁾	59,203	60,446	49,445
Accrued re-organization related fees ⁽⁵⁾	-	5,795	8,944
Class 8 general unsecured claims ⁽²⁾	73,997	73,997	267,607
Partners' capital	396,614	182,347	29,039
Total liabilities and partners' capital	\$ 566,513	\$ 329,758	\$ 364,317

⁽¹⁾ Includes various notes receivable at carrying value, except note due from Hunter Mountain Investment Trust which is fully reserved against (\$61M reserve). Fair value has not been determined with respect to any of the notes.

⁽²⁾ Beginning 1/31/2021, accrual reflects known settlements with material general unsecured claimholders. Amounts prior to 1/31/2021 reflect uncontested portion of Redeemer claim less applicable offsets.

⁽³⁾ Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

⁽⁴⁾ Note on accruals: expenses recorded in Accounts Payable and Accrued Expenses and Other Liabilities reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices. For balance sheet dates other than the Petition Date, amounts include both pre-petition and post-petition liabilities.

⁽⁵⁾ Beginning December 31st, 2019, Debtor accrued for post-petition re-organization fees based upon an estimate of fees incurred to date.

⁽⁶⁾ All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, balances for subsequent months have and will fluctuate.

⁽⁷⁾ Does not include Class 9 claims, for which recoveries are not currently expected.

⁽⁸⁾ Amount as of 1/31/2021 reflects value of shares of a private fund received pursuant to a global settlement with a claimholder.

Monthly Operating Report
ACCRUAL BASIS-2

CASE NAME:	Highland Capital Management, LP
CASE NUMBER:	19-12239-CSS

Income Statement ¹
(in thousands)

	Date 10/16/19 - 10/31/19	Filing to Year Ended ⁽⁴⁾ 2019	Month ended ⁽⁴⁾ 12/31/2020	Filing to Year Ended ⁽⁴⁾ 2020	Month ended ⁽⁴⁾ 1/31/2021	Filing to date ⁽⁴⁾
Revenue:						
Management fees	975	4,528	1,504	24,145	1,331	25,476
Shared services fees	283	1,588	605	9,070	603	9,674
Other income	99	1,582	3,022	8,395	6	8,401
Total operating revenue	1,357	7,697	5,131	41,611	1,940	43,551
Operating expenses:						
Compensation and benefits	997	1,498	3,106	22,143	(11,184) ⁽⁵⁾	10,960
Professional services	256	64	669	3,326	135	3,461
Investment research and consulting	10	266	128	1,097	2	1,099
Marketing and advertising expense	-	370	(22)	441	-	441
Depreciation expense	82	244	76	1,168	76	1,244
Bad debt expense reserve	-	8,410	128	9,968	128	10,096
Other operating expenses	201	1,265	792	6,439	295	6,734
Total operating expenses	1,545	12,118	4,877	44,583	(10,548)	34,035
Operating income/(loss)	(188)	(4,421)	255	(2,972)	12,488	9,516
Other income/expense:						
Interest income	250	1,230	456	7,058	443	7,501
Interest expense	(107)	(286)	(22)	(740)	(22)	(762)
Reserve against notes receivable	-	(57,963)	-	(57,963)	-	(57,963)
Re-org related expenses ⁽²⁾	-	(5,547)	(6,619)	(39,495)	(2,480)	(41,975)
Independent director fees	-	-	(420)	(2,607)	(210)	(2,817)
Other income/expense	32	32	(1)	(171)	(168,396) ⁽⁶⁾	(168,567)
Total other income/expense	175	(62,534)	(6,607)	(93,919)	(170,664)	(264,583)
Net realized gains/(losses) on investments	339	618	896	(29,134)	(360)	(29,494)
Net change in unrealized gains/(losses) of investments ⁽³⁾	2,654	(955)	8,073	(28,311)	4,675	(23,636)
	2,993	(337)	8,969	(57,445)	4,315	(53,130)
Net earnings/(losses) from equity method investees ⁽³⁾	(20)	14,918	10,441	(63,484)	-	(63,484)
Net income/(loss)	\$ 2,959	\$ (52,374)	\$ 13,058	\$ (217,821)	\$ (153,861)	\$ (371,681)

(1) Note on accruals: expenses recorded in the Income Statement reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices.

(2) Debtor funded various retainers totaling \$750k prior to the petition date, which were entirely expensed as of the petition date.

(3) Mark to market gains (losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Certain limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

(4) All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process. As a result, operating results will change as those entries are made.

(5) Reflects the termination of the 2005 Bonus Plan.

(6) Reflects known settlements with material general unsecured claimholders.

Monthly Operating Report
ACCRUAL BASIS-3A

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

	FILING TO YEAR END 2019	QUARTER 1 2020	QUARTER 2 2020	QUARTER 3 2020	QUARTER 4 2020	JANUARY 2021
CASH RECEIPTS AND DISBURSEMENTS						
1. CASH - BEGINNING OF MONTH	\$ 2,554,230	\$ 9,501,409	\$ 12,532,467	\$ 14,993,872	\$ 5,887,813	\$ 12,650,505
RECEIPTS FROM OPERATIONS						
2. OTHER OPERATING RECEIPTS	\$ 1,862,757	\$ 1,379,338	\$ 2,983,221	\$ 2,259,736	\$ 2,786,320	\$ 452,540
3. MANAGEMENT FEES AND OTHER RELATED RECEIPTS	\$ 3,156,742	\$ 7,555,297	\$ 6,179,437	\$ 5,575,680	\$ 6,972,357	\$ 1,104,574
COLLECTION OF ACCOUNTS RECEIVABLE						
4. PREPETITION	\$ 3,593,108	\$ 76,569	\$ 3,727	\$ -	\$ 197,173	\$ -
5. POSTPETITION ¹	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6. TOTAL OPERATING RECEIPTS	\$ 8,612,608	\$ 9,011,204	\$ 9,166,385	\$ 7,835,415	\$ 9,955,850	\$ 1,557,114
NON-OPERATING RECEIPTS						
THIRD PARTY FUND ACTUAL/EXPECTED DISTRIBUTIONS						
7	\$ 423,468	\$ 18,992,786	\$ 797,571	\$ 610,254	\$ 2,034,200	\$ 500,842
8. DIVS, PAYDOWNS, MISC FROM INVESTMENT ASSETS	\$ 1,338,069	\$ 477,479	\$ 74,376	\$ 5,311	\$ 2,989,760	\$ 905
9. OTHER (ATTACH LIST)	\$ 3,390,286	\$ 1,407,103	\$ 10,010,000	\$ 8,817,099	\$ 7,075,476	\$ 2,759,150
10. TOTAL NON-OPERATING RECEIPTS	\$ 5,151,822	\$ 20,877,369	\$ 10,881,947	\$ 9,432,664	\$ 12,099,436	\$ 3,260,896
11. TOTAL RECEIPTS	\$ 13,764,430	\$ 29,888,573	\$ 20,048,331	\$ 17,268,080	\$ 22,055,287	\$ 4,818,010
12. TOTAL CASH AVAILABLE				\$ 32,261,951	\$ 27,943,100	\$ 17,468,515
OPERATING DISBURSEMENTS						
13. PAYROLL, BENEFITS, AND TAXES + EXP REIMB	\$ 3,776,446	\$ 8,825,042	\$ 4,886,314	\$ 8,806,880	\$ 4,280,805	\$ 1,612,847
14. SINGAPORE SERVICE FEES	\$ 95,118	\$ 58,129	\$ 2,965	\$ -	\$ 10,547	\$ -
15. HCM LATIN AMERICA	\$ 200,000	\$ 100,000	\$ -	\$ -	\$ -	\$ -
16. THIRD PARTY FUND CAPITAL CALL OBLIGATION	\$ 1,426,987	\$ 7,812,469	\$ 3,087,163	\$ 979,631	\$ 1,741,089	\$ 909,478
17. UTILITIES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
18. INSURANCE	\$ -	\$ 533,940	\$ 376,376	\$ 163,400	\$ -	\$ -
19. INVENTORY PURCHASES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
20. VEHICLE EXPENSES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
21. TRAVEL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
22. ENTERTAINMENT	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
23. REPAIRS & MAINTENANCE	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
24. SUPPLIES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
25. ADVERTISING	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
26. OTHER (ATTACH LIST)	\$ 1,318,700	\$ 3,283,898	\$ 3,195,054	\$ 3,633,331	\$ 2,604,301	\$ 1,386,246
27. TOTAL OPERATING DISBURSEMENTS	\$ 6,817,251	\$ 20,613,478	\$ 11,547,870	\$ 13,583,243	\$ 8,636,743	\$ 3,908,571
REORGANIZATION EXPENSES						
28. PROFESSIONAL FEES	\$ -	\$ 5,460,546	\$ 5,572,032	\$ 11,551,682	\$ 5,775,852	\$ 2,698,968
29. U.S. TRUSTEE FEES	\$ -	\$ 68,173	\$ 167,025	\$ 277,924	\$ 250,000	\$ -
30. OTHER (ATTACH LIST)	\$ -	\$ 715,317	\$ 300,000	\$ 961,289	\$ 630,000	\$ 210,000
31. TOTAL REORGANIZATION EXPENSES	\$ -	\$ 6,244,037	\$ 6,039,057	\$ 12,790,896	\$ 6,655,852	\$ 2,908,968
32. TOTAL DISBURSEMENTS	\$ 6,817,251	\$ 26,857,515	\$ 17,586,927	\$ 26,374,138	\$ 15,292,594	\$ 6,817,539
33. NET CASH FLOW	\$ 6,947,179	\$ 3,031,058	\$ 2,461,404	\$ (9,106,059)	\$ 6,762,692	\$ (1,999,529)
34. CASH - END OF MONTH	\$ 9,501,409	\$ 12,532,467	\$ 14,993,872	\$ 5,887,813	\$ 12,650,505	\$ 10,650,976

1 All postpetition receipts are included in line 3, Management Fees and Other Related Receipts.

Monthly Operating Report
ACCRUAL BASIS-3B

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

OPERATING RECEIPTS - OTHER

Date	Amount	Type
1/14/2021	1,406,111.92	Nexpoint Advisors LP loan payment
1/21/2021	201,994.38	HCRE loan payment
1/21/2021	463,816.71	HCRE loan payment
1/21/2021	181,227	HCMSI loan payment
1/29/2021	506,000	Ohio State Life Insurance - duplicate receipt returned 2/1/2021
	2,759,149.84	

OPERATING DISBURSMENTS - OTHER

Date	Amount	Vendor
1/4/2021	39,231	Third Party Consultant
1/4/2021	164,584	Crescent TC Investors LP
1/6/2021	6,182	Level 3 Communic
1/8/2021	10,326	Carey Olsen
1/8/2021	204	Ace Parking Lot 3749
1/8/2021	233	UPS Small Package
1/8/2021	630	CDW Direct LLC
1/8/2021	2,824	Third Party Consultant
1/8/2021	5,111	ICE Data Pricing Ref Data LLC
1/8/2021	8,901	CCH Incorporated
1/8/2021	33,760	Houlihan Lokey Financial Advisors
1/8/2021	61,082	Moody's Analytics, Inc.
1/8/2021	25.00	East West bank charge
1/11/2021	129,752	Robert Half International, Inc.
1/15/2021	300	Pitney Bowes Bank Inc- Reserve Acct
1/15/2021	6,133	Third Party Consultant
1/19/2021	121,975	STATE COMPTLR TEXNET
1/20/2021	498	ANALYSIS ACTIVITY FOR 12/20
1/20/2021	2,168	Zayo group
1/22/2021	46,288	AAA/American Arbitration Assoc
1/22/2021	207,480	Hunton Andrews Kurth LLP Operating
1/22/2021	138	AT&T
1/22/2021	252	UPS Small Package
1/22/2021	483	Prostar Services Inc.
1/22/2021	1,209	OPTIONS PRICE REPORTING AUTHORITY
1/22/2021	1,761	Oak Cliff Office Supply & Printing
1/22/2021	2,047	NYSE Market (DE), Inc.
1/22/2021	2,168	Compass Group USA dba Canteen
1/22/2021	2,466	Thomson Reuters West
1/22/2021	2,845	Dawn US Holdings LLC
1/22/2021	4,060	Concur Technologies Inc
1/22/2021	5,885	ABM
1/22/2021	6,118	Willis Towers Watson Insurance Svcs
1/22/2021	11,693	Flexential Colorado Corp
1/22/2021	18,042	Siepe Software LLC
1/22/2021	29,758	Centroid Systems, Inc.
1/22/2021	35,200	Intex Solutions, Inc.
1/22/2021	120,412	Robert Half International, Inc.
1/25/2021	62,311	Carey Olsen
1/27/2021	2	KAUFMAN CO TAX
1/27/2021	10,066	Carey Olsen
1/27/2021	11,586	KAUFMAN CO TAX W
1/29/2021	33,955	Visa Card Payment
1/29/2021	5,047	Liberty Life Assurance Co of Boston
1/29/2021	11,000	Third Party Consultant
1/29/2021	37,615	HE Asante
1/29/2021	122,442	HE Peoria Place
	1,386,246	

REORGANIZATION EXPENSES - OTHER

Date	Amount	Description
1/4/2021	30,000	Dubel & Associates, L.L.C.
1/4/2021	150,000	J.P. Seery & Co. LLC
1/4/2021	30,000	Nelms and Associates
	210,000	

Monthly Operating Report
ACCRUAL BASIS-4

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MGMT FEE RECEIVABLE AGING ²		October ³	November ³	December ³	January ³
1.	0-30	\$4,703,241	\$902,434	\$2,460,863	\$2,857,175
2.	31-60				
3.	61-90				
4.	91+				
5.	TOTAL MGMT FEE RECEIVABLE	\$ 4,703,241	\$ 902,434	\$ 2,460,863	\$ 2,857,175
6.	AMOUNT CONSIDERED UNCOLLECTIBLE				
7.	MGMT FEE RECEIVABLE (NET)	\$ 4,703,241	\$ 902,434	\$ 2,460,863	\$ 2,857,175

AGING OF POSTPETITION TAXES AND PAYABLES			MONTH: January 2021		
TAXES PAYABLE	0-30 DAYS	31-60 DAYS	61-90 DAYS	91+ DAYS	TOTAL
1. FEDERAL					\$0
2. STATE					\$0
3. LOCAL					\$0
4. OTHER (ATTACH LIST)					\$0
5. TOTAL TAXES PAYABLE	\$0	\$0	\$0	\$0	\$0
6. ACCOUNTS PAYABLE	\$816,156	\$1,840,699	\$4,880	\$348,093	\$3,009,827

STATUS OF POSTPETITION TAXES ¹		MONTH: January 2021		
	BEGINNING TAX LIABILITY	AMOUNT WITHHELD AND/ OR ACCRUED	AMOUNT PAID	ENDING TAX LIABILITY
FEDERAL				
1. WITHHOLDING				\$0
2. FICA-EMPLOYEE				\$0
3. FICA-EMPLOYER				\$0
4. UNEMPLOYMENT				\$0
5. INCOME				\$0
6. OTHER (ATTACH LIST)				\$0
7. TOTAL FEDERAL TAXES	\$0	\$0	\$0	\$0
STATE AND LOCAL				
8. WITHHOLDING				\$0
9. SALES				\$0
10. EXCISE				\$0
11. UNEMPLOYMENT				\$0
12. REAL PROPERTY	\$0	\$0	\$0	\$0
13. PERSONAL PROPERTY				\$0
14. OTHER (ATTACH LIST)				\$0
15. TOTAL STATE & LOCAL	\$0	\$0	\$0	\$0
16. TOTAL TAXES	\$0	\$0	\$0	\$0

- 1 The Debtor funds all state and federal employment taxes to Paylocity, who files all required federal and state related employment reports and withholdings.
- 2 Aging based on when management fee is due and payable.
- 3 All balances are preliminary, unaudited, and subject to further year-end closing entries pursuant to the normal year-end closing process.

Monthly Operating Report
ACCRUAL BASIS-S

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: January 2021

BANK RECONCILIATIONS							
	Account #1	Account #2	Account #3	Account #4 ²	Account #5	Account #6	
A. BANK:	East West Bank	East West Bank	Maxim Group	Jefferies I.L.C	Nexbank	East West Bank	
B. ACCOUNT NUMBER:	x4686	x4693	x1885	x0932	x5891	x5848	TOTAL
C. PURPOSE (TYPE):	Operating	Insurance	Brokerage	Brokerage	CD	Prepaid Card	
1. BALANCE PER BANK STATEMENT ¹	\$ 10,265,008	\$ 147,422	\$ 30	\$ -	\$ 138,448	\$ 100,068	\$ 10,650,976
2. ADD: TOTAL DEPOSITS NOT CREDITED							\$ -
3. SUBTRACT: OUTSTANDING CHECKS							\$ -
4. OTHER RECONCILING ITEMS							\$ -
5. MONTH END BALANCE PER BOOKS	\$ 10,265,008	\$ 147,422	\$ 30	\$ -	\$ 138,448	\$ 100,068	\$ 10,650,976
6. NUMBER OF LAST CHECK WRITTEN	100510	n/a	n/a	n/a	n/a	n/a	

INVESTMENT ACCOUNTS							
BANK, ACCOUNT NAME & NUMBER	DATE OF PURCHASE	TYPE OF INSTRUMENT	PURCHASE PRICE				CURRENT VALUE
7.							
8.							
9.							
10.							
11. TOTAL INVESTMENTS			\$0				\$0

CASH	
12. CURRENCY ON HAND	\$0
13. TOTAL CASH - END OF MONTH	\$ 10,650,976

- 1 Account x6342 is now closed.
2 Account x0932 does not reflect any balances held in money market funds

Monthly Operating Report
ACCRUAL BASIS-6

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: January 2021

PAYMENTS TO INSIDERS AND PROFESSIONALS

INSIDERS				
	NAME	TYPE OF PAYMENT	AMOUNT PAID	TOTAL PAID POST PETITION
1	Frank Waterhouse	Salary	\$33,333	\$493,750
2	Frank Waterhouse	Expense Reimbursement	\$417	\$7,405
3	Scott Ellington	Salary + Unused Vacation	\$92,223	\$635,973
4	Scott Ellington	Expense Reimbursement	\$0	\$9,327
5	James Dondero	Salary	\$0	\$129,972
6	James Dondero	Expense Reimbursement	\$0	\$16,918
7	Thomas Surgent	Salary	\$33,333	\$516,667
8	Thomas Surgent	Expense Reimbursement	\$488	\$10,908
9	Trey Parker	Salary	\$0	\$131,250
10	Trey Parker	Expense Reimbursement	\$0	\$6,212
TOTAL PAYMENTS TO INSIDERS			\$159,795	\$1,958,381

PROFESSIONALS ²						
NAME		DATE OF MONTHLY FEE APPLICATION	AMOUNT APPROVED	AMOUNT PAID	TOTAL PAID TO DATE	TOTAL INCURRED & UNPAID
1.	Kurtzman Carson Consultants LLC		75,183	75,183	788,804	239,926
2.	Sidley Austin LLP		778,408	778,408	7,997,559	849,950
3.	Young Conaway Stargatt & Taylor LLP				281,156	-
4.	FTI Consulting, Inc.		378,880	378,880	4,736,818	441,178
5.	Pachulski Stang Ziehl & Jones LLP		1,285,238	1,285,238	11,847,271	3,645,666
6.	Hayward & Associates PLLC		16,465	16,465	320,772	-
7.	Development Specialists, Inc.				3,077,065	756,820
8.	Foley & Lardner LLP		164,795	164,795	629,088	-
9.	Mercer (US) Inc.				170,284	-
10.	Wilmer Cutler Pickering Hale and Dorr LLP				680,411	-
11.	Meta-e Discovery LLC				525,384	-
TOTAL PAYMENTS TO PROFESSIONALS				2,698,968	31,054,612	5,933,540

² Does not include payments to ordinary course professionals.

POSTPETITION STATUS OF SECURED NOTES, LEASES PAYABLE AND ADEQUATE PROTECTION PAYMENTS

	NAME OF CREDITOR	SCHEDULED MONTHLY PAYMENTS DUE	AMOUNTS PAID DURING MONTH	TOTAL UNPAID POSTPETITION
1.	Crescent TC Investors LP (rent portion only)	130,364	130,364	-
2.				
3.				
4.				
5.				
6.	TOTAL	130,364	\$130,364	\$0

Monthly Operating Report
ACCRUAL BASIS-7

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: January 2021

QUESTIONNAIRE

	YES	NO
1. HAVE ANY ASSETS BEEN SOLD OR TRANSFERRED OUTSIDE THE NORMAL COURSE OF BUSINESS THIS REPORTING PERIOD?		x
2. HAVE ANY FUNDS BEEN DISBURSED FROM ANY ACCOUNT OTHER THAN A DEBTOR IN POSSESSION ACCOUNT?		x
3. ARE ANY POSTPETITION RECEIVABLES (ACCOUNTS, NOTES, OR LOANS) DUE FROM RELATED PARTIES?	x	
4. HAVE ANY PAYMENTS BEEN MADE ON PREPETITION LIABILITIES THIS REPORTING PERIOD?		x
5. HAVE ANY POSTPETITION LOANS BEEN RECEIVED BY THE DEBTOR FROM ANY PARTY?		x
6. ARE ANY POSTPETITION PAYROLL TAXES PAST DUE?		x
7. ARE ANY POSTPETITION STATE OR FEDERAL INCOME TAXES PAST DUE?		x
8. ARE ANY POSTPETITION REAL ESTATE TAXES PAST DUE?		x
9. ARE ANY OTHER POSTPETITION TAXES PAST DUE?		x
10. ARE ANY AMOUNTS OWED TO POSTPETITION CREDITORS DELINQUENT?		x
11. HAVE ANY PREPETITION TAXES BEEN PAID DURING THE REPORTING PERIOD?		x
12. ARE ANY WAGE PAYMENTS PAST DUE?		x

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "YES," PROVIDE A DETAILED EXPLANATION OF EACH ITEM. ATTACH ADDITIONAL SHEETS IF NECESSARY.

3 Debtor generates fee income and other receipts from various related parties in normal course, see cash management motion for further discussion.

INSURANCE

	YES	NO
1. ARE WORKER'S COMPENSATION, GENERAL LIABILITY AND OTHER NECESSARY INSURANCE COVERAGES IN EFFECT?	x	
2. ARE ALL PREMIUM PAYMENTS PAID CURRENT?	x	
3. PLEASE ITEMIZE POLICIES BELOW.		

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "NO," OR IF ANY POLICIES HAVE BEEN CANCELLED OR NOT RENEWED DURING THIS REPORTING PERIOD, PROVIDE AN EXPLANATION BELOW. ATTACH ADDITIONAL SHEETS IF NECESSARY.

INSTALLMENT PAYMENTS

TYPE OF POLICY	CARRIER	PERIOD COVERED	PAYMENT AMOUNT & FREQUENCY

EXHIBIT 17

Motion for Allowance of Administrative Expense Claims

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Reorganized Debtor.¹

Chapter 11

Case No. 19-34054-sgj11

**MOTION OF CPCM, LLC FOR ALLOWANCE AND
PAYMENT OF ADMINISTRATIVE EXPENSE CLAIMS**

CPCM, LLC (“**CPCM**”),² by and through its undersigned counsel, files this *Motion of CPCM, LLC for Allowance and Payment of Administrative Expense Claims* (the “**Motion**”) in the

¹ On August 11, 2021 (the “**Effective Date**”), the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P., (As Modified)* [Dkt No. 1808] (the “**Plan**”), filed by Highland Capital Management, L.P. (the “**Debtor**”) became effective. Therefore, all references made herein to the “Debtor” are to the “Debtor” as debtor in possession prior to the Effective Date or to the Debtor as reorganized from and after the Effective Date.

² In accordance with certain Assignment of Claims Agreements, each of Scott Ellington, Isaac Leventon, and Frank Waterhouse (collectively, the “**Former Employees**”) assigned to CPCM, among other things, any and all claims such Former Employee held against the Debtor asserted in various proofs of claim relating to amounts owed to the Former Employees as employment compensation and any claims relating to the right of such Former Employee to receive any performance bonus from the Debtor with respect to the 2019 or 2020 calendar year.



United States Bankruptcy Court for the Northern District of Texas (the “*Court*”), and in support thereof respectively states as follows:³

PRELIMINARY STATEMENT

1. CPCM brings this Motion to recover the Bonus Amounts (as defined herein), which became properly due and owing from the Debtor to the Former Employees during the course of the Debtor’s chapter 11 case. The Debtor does not dispute that it never paid the Bonus Amounts, even though the Debtor characterized these Bonus Amounts as part of the compensation payable to the Former Employees in the ordinary course of business, even though the conditions to payment of the Bonus Amounts have long since been satisfied, and even though the Debtor’s estate has already reaped the benefit of the postpetition services provided by the Former Employees. Despite postpetition assurances from the Debtor that the Bonus Amounts would be paid and that the Former Employees would receive their ordinary course compensation for services rendered, the Debtor has unreasonably and unjustly withheld payment of the Bonus Amounts.

2. The Bonus Amounts owed to the Former Employees are compensation for postpetition services, which services were necessary and yielded a material benefit to the Debtor’s estate. How do we know? The Debtor told the Court so. Specifically, the Debtor informed the Court that the Bonus Amounts “continue to be earned on a postpetition basis,” Bonus Motion ¶ 26, and that “[a]lthough the amounts owed to insiders under the Bonus Plans were awarded prepetition, they are deferred over a period of years in order to continue to motivate Employees to achieve the highest possible level of performance.” Bonus Motion ¶ 35. Furthermore, the Debtor stressed that “[e]mployee compensation under the Bonus Plans is critical to the Debtor’s ongoing operations

³ Capitalized terms used, but not otherwise defined herein, shall have the meanings ascribed to them in the *Motion of the Debtor For Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief* [Dkt. No. 177] (the “*Bonus Motion*”).

and any threat of *nonpayment under such plans would have a potentially catastrophic impact on the Debtor's reorganization efforts.*" Bonus Motion ¶ 25 (emphasis added).

3. Significantly, the Bonus Motion originally contemplated compensating *all employees*. The Official Committee of Unsecured Creditors (the "***Creditors' Committee***"), however, apparently complained, and the Debtor capitulated. The Debtor agreed, without any explanation on the record why it was singling out the Former Employees, to carve out the Former Employees from the relief requested under the Bonus Motion. Following that action, however, James Seery, the Debtor's Chief Executive Officer, provided repeated assurances that the Former Employees would be made whole, notwithstanding the carveout. Moreover, the Debtor accounted for the liabilities for the amounts payable to the Former Employees as *postpetition* obligations. In reliance upon these assurances, the Former Employees continued performing services for the Debtor.

4. The Debtor has made the point repeatedly that the only requirement governing whether payment to an employee of a Bonus Amount should be made is whether the employee was "in their seat" on the vesting date. The Debtor also has asserted that the only way that it could avoid having to make such payment was to terminate an employee (even without cause) before the vesting date. The Bonus Plans do not impose any other requirements for, or conditions to, payment of the Bonus Amounts. It is undisputed that all the Former Employees were employed by the Debtor on the applicable vesting dates. Nevertheless, having induced the Former Employees to remain with the Debtor, the Debtor unilaterally imposed new conditions on payment of the Bonus Amounts and determined that, with respect to the Former Employees, the most that they could obtain was treatment of the Bonus Amounts as Allowed Convenience Claims (as such terms are defined in the Plan) and less than 100% payout of the Bonus Amounts. Because, by the Debtor's

own admission, the Bonus Amounts are part of the wages earned by the Former Employees for services rendered after the commencement of the Debtor's chapter 11 case, the Bonus Amounts satisfy the requirements of sections 503(b)(1)(A) and 507(a)(2) of title 11 of the United States Code (the "*Bankruptcy Code*") and must be Allowed and paid as Administrative Expense Claims (as such terms are defined in the Plan).

JURISDICTION AND VENUE

5. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

6. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

RELEVANT FACTUAL BACKGROUND

I. The Former Employees

7. The Former Employees were all previously employed by the Debtor: Mr. Ellington was employed from May 21, 2007 until January 5, 2021; Mr. Leventon was employed from September 21, 2009 until January 5, 2021; and Mr. Waterhouse was employed from October 23, 2006 until February 28, 2021. The Bonus Amounts claimed under this Motion for Mr. Ellington and Mr. Leventon vested on February 28, 2020, May 31, 2020, and August 31, 2020. On each of such dates, Mr. Ellington and Mr. Leventon were employed by the Debtor. The Bonus Amounts claimed under this Motion for Mr. Waterhouse vested on February 28, 2020, August 31, 2020, and February 26, 2021. On each of such dates, Mr. Waterhouse was employed by the Debtor.

II. The Bonus Plans

8. In the ordinary course of its business, the Debtor operated two prepetition bonus plans (together, the "*Bonus Plans*"): the Annual Bonus Plan and the Deferred Bonus Plan (each as defined in the Bonus Motion).

9. Under the Annual Bonus Plan, all of the Debtor's employees are eligible for a yearly bonus payable in up to four (4) equal installments, each payable at six-month intervals on the last business day of each of February and August. Bonus Motion ¶ 11. "In practice, the Annual Bonus Plan is a necessary component of each Employee's compensation and amounts to payment in lieu of a higher fixed salary." *Id.* Under the Deferred Bonus Plan, the Debtor's employees generally are awarded shares of a designated publicly traded stock, the right to which vests 39 months later. *Id.* at ¶ 15. Under both the Annual Bonus Plan and the Deferred Bonus Plan, the only condition of payment is that an employee be employed by the Debtor at the time the award (or any portion thereof) vested.

A. The Liquidated Bonus Amounts Are Properly Due and Owing to Mr. Ellington and Mr. Leventon under the Bonus Plans⁴

10. Mr. Ellington and Mr. Leventon each received written statements evidencing awards under the Annual Bonus Plan (an "***Award Letter Agreement***") in February 2019 (the "***2019 Annual Bonus Award***"). Pursuant to their 2019 Annual Bonus Award, Mr. Ellington and Mr. Leventon were entitled to payments of \$350,000 and \$100,000, respectively, in each of February 2019 (installment one), August 2019 (installment two), February 2020 (installment three), and August 2020 (installment four). Mr. Ellington and Mr. Leventon received the first two installments of their 2019 Annual Bonus Award. In violation of the explicit terms of the Annual Bonus Plan, however, the Debtor failed to pay Mr. Ellington and Mr. Leventon installments three and four of their 2019 Annual Bonus Award, even though they were employed by the Debtor on the applicable

⁴ Mr. Waterhouse entered into a Senior Employee Stipulation and Tolling Agreement Extending Statutes of Limitation dated as of January 20, 2021 (the "***Waterhouse Stipulation***") with the Debtor pursuant to which Mr. Waterhouse agreed to accept treatment of bonuses owed to him under the 2019 Annual Bonus Award and 2017 Deferred Bonus Award (each as defined herein) as Allowed Convenience Claims (as such terms are defined in the Plan). The Debtor is currently in breach of its obligations under the Waterhouse Stipulation. To the extent the Waterhouse Stipulation is ultimately found to be unenforceable, CPCM reserves the right to further assert amounts owed by the Debtor to CPCM, as assignee, with respect to the 2019 Annual Bonus Award and 2017 Deferred Bonus Award payable to Mr. Waterhouse, as administrative expenses for the same reasons set forth below with respect to amounts due and owing to Mr. Ellington and Mr. Leventon.

vesting dates. On account of the 2019 Annual Bonus Award, the Debtor owes CPCM, as the assignee of Mr. Ellington's claim for the 2019 Annual Bonus Award, \$700,000, and the Debtor owes CPCM, as the assignee of Mr. Leventon's claim for the 2019 Annual Bonus Award, \$200,000.

11. Mr. Ellington and Mr. Leventon similarly received written instruments, dated March 21, 2017, evidencing awards under the Deferred Bonus Plan, which awards were effective as of February 28, 2017 and vested on May 31, 2020 (the "*2017 Deferred Bonus Award*"). In violation of the clear terms of the Deferred Bonus Plan, the Debtor never paid such award to either Mr. Ellington or Mr. Leventon, even though both were employed by the Debtor on the vesting date. Consequently, in connection with the 2017 Deferred Bonus Award, the Debtor owes CPCM, as the assignee of Mr. Ellington's claim under the 2017 Bonus Award, \$667,197, and the Debtor owes CPCM, as the assignee of Mr. Leventon's claim under the 2017 Bonus Award, \$389,198.

12. Collectively, the outstanding amounts owed by the Debtor to CPCM, as assignee, with respect to the 2019 Annual Bonus Award and the 2017 Deferred Bonus Award payable to Mr. Ellington and Mr. Leventon total \$1,956,395 (the "*Liquidated Bonus Amounts*").

B. The Unliquidated Bonus Amounts Are Properly Due and Owing to the Former Employees under the Annual Bonus Plan

13. The Former Employees received awards under the Annual Bonus Plan each year of their employment with the Debtor, other than 2020. Consistent with the Debtor's ordinary prepetition practice, upon information and belief, most (if not all) employees of the Debtor, other than the Former Employees,⁵ received Award Letter Agreements in 2020, which granted awards

⁵ Upon information and belief, Thomas Surgent, who was the Debtor's Chief Compliance Officer during the chapter 11 case and is the Debtor's current General Counsel, also did not receive a 2020 Award Letter Agreement.

payable in March 2020 (installment one), August 2020 (installment two), February 2021 (installment three), and August 2021 (installment four) (a “**2020 Award Letter Agreement**”).

14. Upon information and belief, Mr. Seery specifically directed that 2020 Award Letter Agreements *not* be sent to the Former Employees, but also made assurances to the Former Employees that they would be “made whole” under the Plan. This directive was apparently based upon the mistaken belief that insiders of a debtor are not typically paid their ordinary course compensation during the pendency of a bankruptcy case, coupled with the mistaken belief that Mr. Leventon was, in fact, an “insider” of the Debtor.

15. Although the Plan has been confirmed and the Effective Date has occurred, the Debtor never paid any of the amounts to which the Former Employees otherwise would have been entitled had they rightfully received 2020 Award Letter Agreements (the “**Unliquidated Bonus Amounts**,” and together with the Liquidated Bonus Amounts, the “**Bonus Amounts**”). Upon information and belief, no employee who received a 2020 Award Letter Agreement received an award that decreased from the prior year. Therefore, as applied to the Former Employees, and accounting for the dates on which each of the Former Employees continued to be employed by the Debtor, the Debtor would have paid Mr. Waterhouse three installments of \$212,500, totaling \$637,500; the Debtor would have paid Mr. Ellington two installments of \$350,000, totaling \$700,000; and the Debtor would have paid Mr. Leventon two installments of \$100,000, totaling \$200,000. Therefore, the Debtor owes CPCM, as the assignee of the claims for the Unliquidated Bonus Amounts from Mr. Waterhouse, Mr. Ellington, and Mr. Leventon, a total of \$1,537,500.

C. The Bonus Motion Was Revised at the Eleventh Hour to Accede to the Demands of the Creditors’ Committee

16. The Debtor filed the Bonus Motion on December 4, 2019 [Dkt. No. 177], seeking authorization to pay amounts owed to all its employees under the Bonus Plans in the ordinary

**MOTION OF CPCM, LLC FOR ALLOWANCE AND
PAYMENT OF ADMINISTRATIVE EXPENSE CLAIMS**

course. At the January 21, 2020 hearing on the Bonus Motion (the “**Bonus Motion Hearing**”), the Debtor’s counsel indicated that, although the original motion sought authorization to pay bonus amounts to *all employees*, the Debtor, at the insistence of the Creditors’ Committee, had “agreed, for purposes of today, to exclude four statutory insiders.” *Transcript of Proceedings Before the Honorable Stacey G.C. Jernigan, United States Bankruptcy Judge* [Dkt No. 393] (the “**Bonus Motion Hearing Transcript**”), 118:21-22. Debtor’s counsel went on to say that “[t]here are a few others that are being pulled out as well.” *Id.* at 119:3-4. Debtor’s counsel later reiterated that “the board has decided with respect to the modifications to exclude the four statutory insiders as well as a few others,” from the scope of its requested relief. *Id.* at 122:11-13.

17. The Debtor did not state at the Bonus Motion Hearing how or why the Creditors’ Committee and the Debtor came to determine that insiders and these “few others” should be denied their payment rights (resulting in the Debtor paying less than market compensation to those employees). The Debtor failed even to specifically identify which employees it considered included within the scope of the proposed carveout. Instead, the Debtor’s counsel simply stated that the Debtor’s board would “address the compensation of those employees separately.” *Id.* at 122:14-15. To date, however, the Debtor has never paid the Former Employees (or CPCMC as their assignee) the amounts the Debtor owes to them under the Bonus Plans, even though through the month ending December 31, 2020, the Debtor filed Monthly Operating Reports signed by Mr. Seery under penalty of perjury that treated the amounts owed to the Former Employees as postpetition obligations. Indeed, the *Monthly Operating Report for Highland Capital Management for the Month Ending December 2020* was filed on February 24, 2021 [Doc. 1949] (the “**December 2020 Monthly Operating Report**”), after the Debtor terminated the employment of Mr. Leventon

and Mr. Ellington, yet such report continues to accrue the Liquidated Bonus Amounts as postpetition liabilities.

18. The Court entered its *Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief* [Dkt No. 380] (the “**Bonus Order**”) on January 21, 2020, granting the Bonus Motion “on the terms set forth herein and as presented at the Hearing and as agreed to by the Official Committee of Unsecured Creditors,” which is to say with the arbitrary carveout for insiders and certain unnamed others. Bonus Order ¶ 1. Specifically, the Court ordered that “[t]he Debtor is authorized, but not directed, to pay or continue to honor all sums due to the Debtor’s employees (as described at the Hearing and as agreed by the Committee, the ‘Covered Employees’) in the ordinary course under the Bonus Plans, consisting of the Annual Bonus Plan for the 2018 calendar year and the Deferred Bonus Plan.” Bonus Order ¶ 2. As noted above, the Debtor never identified who exactly was excluded from the universe of employees the Bonus Order terms “Covered Employees” and neither the Debtor nor the Court itself ever provided further clarity.

REQUESTED RELIEF

19. By this Motion, CPCM requests that the Court allow the Bonus Amounts as Administrative Expense Claims pursuant to section 503(b)(1)(A) of the Bankruptcy Code and require the Debtor to pay the Bonus Amounts to CPCM pursuant to section 507(a)(2) of the Bankruptcy Code.

BASIS FOR RELIEF

I. Legal Standard

20. Section 503(b)(1)(A) of the Bankruptcy Code accords administrative expense status to “the actual, necessary costs and expenses of preserving the estate,” which category includes

“wages, salaries, and commissions for services rendered after the commencement of the case.” 11 U.S.C. § 503(b)(1)(A).

21. “A *prima facie* case under § 503(b)(1) may be established by evidence that (1) the claim arises from a transaction with the debtor-in-possession; and (2) the goods or services supplied enhanced the ability of the debtor-in-possession’s business to function as a going concern.” *In re Transamerican Natural Gas Corp.*, 978 F.2d 1409, 1416 (5th Cir. 1992). Put another way, “[i]n order to qualify as an ‘actual and necessary cost’ under section 503(b)(1)(A), a claim against the estate must have arisen post-petition and as a result of actions taken by the trustee that benefi[t]ed the estate.” *Neutra, Ltd. v. Terry (In re Acis Capital Mgmt., L.P.)*, 604 B.R. 484, 517 (N.D. Tex. 2019) (quoting *In re Jack/Wade Drilling, Inc.*, 258 F.3d 385, 387 (5th Cir. 2001)).

22. Along the lines of the above, the United States Court of Appeals for the Fifth Circuit has characterized an administrative expense as “[a]n ‘actual and necessary cost’ ... of benefit to the estate and its creditors.” *Texas v. Lowe (In re H.L.S. Energy Co.)*, 151 F.3d 434, 437 (5th Cir. 1998) (citing *Transamerican Natural Gas Corp.*, 978 F.2d at 1416). “The ‘benefit’ requirement has no independent basis in the Code, however, but is merely a way of testing whether a particular expense was truly ‘necessary’ to the estate: If it was of no ‘benefit,’ it cannot have been ‘necessary.’” *Id.* at 437. (citing Lawrence P. King, Ed., 4 COLLIER ON BANKRUPTCY P 503.06[3][b] (15th rev. ed. 1998)).

23. Courts have routinely found that the ability of a debtor to conduct business as usual postpetition and the employee services that enable a debtor to do so constitute a benefit to the estate. *See In re Transamerican Natural Gas Corp.*, 978 F.2d at 1420; *Brickley v. Scattered Corp.*

(*In re H&M Oil & Gas, LLC*), 514 B.R. 790, 826 (Bankr. N.D. Tex. 2014) (allowing an

MOTION OF CPCMC, LLC FOR ALLOWANCE AND
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administrative expense for the salary of an employee whose services “enhanced [the debtor’s] ability to function on a postpetition basis”); *In re Amarex, Inc.*, 853 F.2d 1526, 1531-32 (10th Cir. 1988) (allowing an administrative expense for the postpetition portion of a guaranteed annualized bonus effectively constituting part of an employee’s salary earned as compensation for the employee’s postpetition service); *In re APF Co.*, 270 B.R. 567, 570 (Bankr. D. Del. 2001) (“If Schedule 2.01 is essentially a bonus provision earned postpetition, as Claimants assert, then they have a strong argument that their claim is entitled to administrative expense priority”); *In re Am. Plumbing & Mech., Inc.*, 323 B.R. 442, 465 (Bankr. W.D. Tex. 2005) (emphasizing that “all compensation, *including bonuses*, can qualify as an administrative expense,” to the extent that “it counts as compensation for services rendered to the post-petition estate”) (emphasis added).

II. Liquidated Bonus Amounts

A. *The Liquidated Bonus Amounts Are Compensation That Was Payable to Mr. Ellington and Mr. Leventon for Services Performed Postpetition*

24. By the Debtor’s own admission, the Liquidated Bonus Amounts, although granted prepetition, were earned, became due and payable, and compensated employees, including Mr. Ellington and Mr. Leventon, for services performed postpetition. The Debtor made this argument persuasively in the Bonus Motion, in which it stated that payments under the Bonus Plans “continue to be earned on a postpetition basis,” Bonus Motion ¶ 26, and pointed out that “[a]lthough the amounts owed to insiders under the Bonus Plans were awarded prepetition, they are deferred over a period of years in order to continue to motivate Employees to achieve the highest possible level of performance.” Bonus Motion ¶ 35. Moreover, “the awards under the Bonus Plans do not represent an ‘extra’ payment to Employees, but rather are an integral part of each Employee’s compensation,” and “Employees accept reduced salaries in exchange for bonuses.” Bonus Motion ¶ 26. Indeed, as set forth in the Bonus Motion, the Debtor clearly treated

the Liquidated Bonus Amounts as compensation to the employee in the year in which such amounts were scheduled to be paid. This is further supported by the Debtor's accrual of the Liquidated Bonus Amounts as postpetition liabilities on its books and records and in the Monthly Operating Reports that Mr. Seery signed, and the Debtor filed, after the entry of the Bonus Order and through the filing of the December 2020 Monthly Operating Report on February 24, 2021. The Debtor cannot now credibly argue to the contrary.

25. Under each of the Bonus Plans, the only condition to payment of any award granted thereunder is that the employee remain employed by the Debtor on the relevant payment date.⁶ As the Debtor represented to the Court at the Bonus Motion Hearing, the only instance in which an employee would forfeit their right to compensation under the Bonus Plans is if they were terminated. But even then, employees would be paid if “they’re there on the actual payment date.” Bonus Motion Hearing Transcript. 121:5-12; *see also* Bonus Motion ¶ 26. Mr. Ellington and Mr. Leventon were each employed and “in their seats” on the dates designated for payment of the Liquidated Bonus Amounts, thereby satisfying the only condition for payment under the Bonus Plans. By the Debtor’s own admission, that Mr. Ellington and Mr. Leventon were later terminated after these bonus payments vested and became due and payable has no effect whatsoever on the payments owed to them and earned during their employment with the Debtor.

B. The Liquidated Bonus Amounts Constitute Actual and Necessary Costs of Preserving the Debtor’s Estate

26. Also by the Debtor’s own admission, payment of the amounts owed to employees under the Bonus Plans was vital to the continued operation of the Debtor’s business:

Employee compensation under the Bonus Plans is critical to the Debtor’s ongoing operations and any threat of *nonpayment under such plans would have a potentially catastrophic impact on the Debtor’s reorganization*

⁶ CPCM reserves the right to argue that the Debtor, through its course of conduct prepetition, modified the conditions to payment under the Bonus Plans. The arguments set forth herein are made without prejudice to the aforementioned reservation.

efforts. Absent authority to honor the Bonus Plans in the ordinary course, the Debtor would be unable to sustain operations or maximize the value of its vast portfolio of assets, as Employees would likely abandon the Debtor. Bonus Motion ¶ 25 (emphasis added).

The Debtor further argued that if it was

unable to pay ordinary course bonuses to *all of its eligible Employees, including insiders*, the Debtor would likely face a *mass exodus* of Employees and the morale of its Employees would be severely jeopardized, putting the Debtor's business and restructuring efforts into *substantial risk*.

Id. ¶ 9 (emphasis added).

27. In addition, according to the Debtor's own compensation expert, the Bonus Plans "are well within market, and that if such bonuses are not paid, the Debtor's employees would be severely undercompensated," the bottom line being, in the Debtor's own estimation, that "continuing to honor the Debtor's ordinary course bonus obligations, as modified, to employees is critical. The failure to do so is likely to cause an employee exodus and will adversely prejudice the Debtor's efforts to maximize value for all constituents." Bonus Motion Hearing Transcript at 122:24 -123:8.

28. Furthermore, Mr. Ellington and Mr. Leventon were specifically induced to remain in the Debtor's employ. Mr. Seery made representations that Mr. Ellington and Mr. Leventon would be made whole under the Plan. Having reaped the benefit of such services, the Debtor cannot now be excused from paying for them.

29. The inescapable conclusion is that the Debtor's acceptance of postpetition services rendered by Mr. Ellington and Mr. Leventon to the Debtor, as to which the Liquidated Bonus Amounts relate, provided a clear benefit to the estate by allowing the Debtor to continue to conduct business as usual as a going concern. Therefore, the Liquidated Bonus Amounts qualify as actual and necessary expenses of the Debtor's estate and are entitled to administrative expense priority.

C. The Court Already Determined that the Liquidated Bonus Amounts Are Entitled to Administrative Expense Claim Treatment

30. Furthermore, definitively placing the proper treatment of the Liquidated Bonus Amounts as Administrative Expense Claims beyond a shadow of a doubt, the Court previously ruled that payments under the Bonus Plans are Administrative Expense Claims. Specifically, in ruling on the Bonus Motion, the Court provided that its order “shall not be deemed to grant any Covered Employee administrative expense priority for any claim under the Bonus Plans or DRIP *except to the extent a particular payment under such Bonus Plans or DRIP has become due and payable.*” Bonus Order ¶ 4 (emphasis added). The Liquidated Bonus Amounts have long since become due and payable. Therefore, they are entitled to administrative expense priority, as any other claim under the Bonus Plans and as recognized and provided for in the Bonus Order. That certain employees, including the Former Employees, may have been excluded from the scope of the Bonus Motion and the Bonus Order is of no consequence because such exclusion does not alter the nature of the underlying obligations and the reasoning behind the Court's ruling in the Bonus Order.

III. The Unliquidated Bonus Amounts

A. The Former Employees Are Entitled to Receive Awards in Respect of 2020 Award Letter Agreements Mistakenly and Improperly Withheld

31. The arguments set forth in part II above in relation to the Liquidated Bonus Amounts apply with equal force to the Unliquidated Bonus Amounts and are expressly incorporated herein.

32. CPCM acknowledges that none of the Former Employees received a 2020 Award Letter Agreement. Upon information and belief, Mr. Seery instructed that 2020 Award Letter Agreements not be sent to the Former Employees, an instruction that had nothing whatsoever to do with any actual or perceived shortfall in job performance. Upon information and belief, it was

**MOTION OF CPCM, LLC FOR ALLOWANCE AND
PAYMENT OF ADMINISTRATIVE EXPENSE CLAIMS**

virtually unprecedented for employees of the Debtor *not* to be awarded bonuses under the Annual Bonus Plan, which was part of what the Debtor considered to be ordinary course compensation to the Debtor's employees. As explained by the Debtor, "awards under the Bonus Plans do not represent an 'extra' payment to Employees, but rather are an integral part of each Employee's compensation." Bonus Motion ¶ 26. Upon information and belief, the failure of an employee to perform to standards ordinarily would have resulted in termination rather than continued employment without bonus pay.

33. Mr. Seery's sole purported rationale in refusing to issue 2020 Award Letter Agreements to the Former Employees was that, in a bankruptcy case, insiders of the Debtor are not typically paid bonuses during the pendency of the case and that the Former Employees would instead be made whole through the plan process. In this, Mr. Seery and the Debtor are mistaken. The Bankruptcy Code does not contain a blanket prohibition on the payment of ordinary course compensation to the employees of a debtor, insiders or not. To the contrary, under section 363(c)(1) of the Bankruptcy Code, the trustee (or the debtor in possession under section 1107(a)) "may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business without notice or a hearing." As reiterated extensively by the Debtor in the Bonus Motion and by the Debtor's counsel on the record at the Bonus Motion Hearing, awards and payments under the Bonus Plans "are entirely consistent with the ordinary course operations of the Debtor and completely consistent with prepetition practice." Bonus Motion Hearing Transcript, at 124:9-11. Therefore, although the Debtor chose to seek authorization from this Court to continue paying amounts under the Bonus Plans in the ordinary course, it was not required to do so. It would be

inequitable then to punish the Former Employees for the Debtor's own mistake by withholding the Unliquidated Bonus Amounts, which were otherwise rightfully earned.

34. Moreover, Mr. Leventon was never an "insider" of the Debtor. Section 101(31)(C) of the Bankruptcy Code defines an "insider" of a limited partnership as follows:

(i) general partner in the debtor; (ii) relative of a general partner in, general partner of, or person in control of the debtor; (iii) partnership in which the debtor is a general partner; (iv) general partner of the debtor; or (v) person in control of the debtor.

Mr. Leventon does not fall under any of the foregoing types of "insiders" of the Debtor.

35. Further compounding this inequity is that Mr. Seery made assurances on multiple occasions that the Former Employees would be made whole, thereby inducing the Former Employees to continue to perform services for the Debtor on a postpetition basis. The Debtor should not now, having received the benefit of this bargain, be allowed to avoid fulfilling its own end of the deal.

B. The Unliquidated Bonus Amounts Should Be Allowed in an Amount at Least Equal to the Awards Granted to the Former Employees in their 2019 Award Letter Agreements, Consistent with the Debtor's Ordinary Practice

36. Mr. Waterhouse was employed by the Debtor until February 28, 2021, Mr. Ellington was employed by the Debtor until January 5, 2021, and Mr. Leventon was employed by the Debtor until January 5, 2021. As such, of the awards that should have been granted to the Former Employees under the 2020 Award Letter Agreements, Mr. Waterhouse (now CPCM, as assignee) has a claim for installments one, two, and three (which vested in February 28, 2020, August 31, 2020, and February 26, 2021, respectively), and each of Mr. Ellington and Mr. Leventon (now CPCM, as assignee) has a claim for installments one and two (which vested in February 28, 2020 and August 31, 2020, respectively). As none of the Former Employees actually

received a 2020 Award Letter Agreement, however, the precise amounts payable in connection with each installment of such awards is, at present, unliquidated.

37. With that said, an analysis of the Award Letter Agreements issued to each of the Former Employees in 2017, 2018, and 2019 demonstrates that, historically, payments to the Former Employees under the Annual Bonus Plan either remained flat or increased year to year. Payments never decreased from one year to the next. Indeed, upon information and belief, all other employees of the Debtor who received 2020 Award Letter Agreements received awards at least equal to or in excess of the awards they had been granted in 2019.

38. Therefore, based upon the Debtor's historical practice with respect to employees as a whole and with respect to the Former Employees in particular, CPCM respectfully submits that it is reasonable to assume that awards granted to the Former Employees under 2020 Award Letter Agreements had such agreements actually been properly issued likewise would have remained at least flat versus the previous year's awards. This would have been equivalent to equal installments of \$212,500 for Mr. Waterhouse, equal installments of \$350,000 for Mr. Ellington, and equal installments of \$100,000 for Mr. Leventon. Accounting for the number of installments each Former Employee should have earned by virtue of his continued employment with the Debtor on the date such installment became payable, this comes to a total of \$637,500 on account of Mr. Waterhouse, \$700,000 on account of Mr. Ellington, and \$200,000 on account of Mr. Leventon for a grand total of \$1,537,500. The Court should liquidate the Unliquidated Bonus Amounts in such amount, allow them as Administrative Expense Claims, and require the Debtor to pay them to CPCM.

39. WHEREFORE, for the reasons set forth above, CPCM respectfully requests that the Court (i) order that the Bonus Amounts be Allowed as Administrative Expense Claims

pursuant to section 503(b)(1)(A) of the Bankruptcy Code and paid pursuant to section 507(a)(2) of the Bankruptcy Code and (ii) grant CPCM such further relief as is just.

Dated: September 24, 2021

By: /s/ Frances A. Smith

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Counsel for CPCM

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Debtor.

Chapter 11

Case No. 19-34054-sgj11

**ORDER GRANTING MOTION OF CPCMC, LLC FOR ALLOWANCE AND PAYMENT
OF ADMINISTRATIVE EXPENSE CLAIMS**

This matter coming before the Court on *Motion of CPCMC, LLC for Allowance and Payment of Administrative Expense Claims* [Docket No.] (the “**Motion**”)¹, the Court having reviewed the Motion, finds that (i) the Court has jurisdiction over this matter under 28 U.S.C. § 1334, and (ii) notice of the Motion was sufficient under the circumstances; and for the reasons stated on the record by the Court at the hearing;

IT IS HEREBY ORDERED THAT:

1. The Motion is hereby **GRANTED**.

¹ Capitalized terms used but not otherwise defined herein shall have the meaning given thereto in the Motion.

2. The Bonus Amounts are Allowed as Administrative Expense Claims pursuant to section 503(b)(1)(A) of the Bankruptcy Code and the Debtor is ordered to pay the Bonus Amounts to CPCM pursuant to section 507(a)(2) of the Bankruptcy Code.
3. Notwithstanding any Federal Rule of Bankruptcy Procedure or any Local Bankruptcy Rule of the United States Bankruptcy Court for the Northern District of Texas that might otherwise delay the effectiveness of this Order, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.
4. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

END OF ORDER

Submitted by:

/s/ Frances A. Smith

ROSS & SMITH, PC

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EXHIBIT 18

Notice of Debtor's Amended Operating Protocols

PACHULSKI STANG ZIEHL & JONES LLP
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Counsel for the Debtor and Debtor-in-Possession

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	
	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	Related to Docket No. 281

NOTICE OF DEBTOR'S AMENDED OPERATING PROTOCOLS

TO: (a) the Office of the United States Trustee; (b) the Office of the United States Attorney for the Northern District of Texas; (c) counsel to the Committee; (d) the Debtor's principal secured parties; and (e) parties requesting notice pursuant to Bankruptcy Rule 2002.

¹ The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



PLEASE TAKE NOTICE that on February 19, 2020, the Court held a hearing (the “Hearing”) on (i) that certain *Motion of the Debtor for Approval of Settlement with the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course* [Dkt. No. 281] (the “Motion”) filed by Highland Capital Management, L.P., the debtor and debtor-in-possession (collectively, the “Debtor”) in the above-captioned chapter 11 bankruptcy case (the “Case”), and (ii) that certain *Limited Objection of the Issuers to Motion of the Debtor for Approval of Settlement with the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course* [Dkt. No. 324] (the “Limited Objection”) filed by the Issuers² in response to the Debtor’s Motion.

PLEASE TAKE FURTHER NOTICE that at the Hearing, the Debtor announced to the Court that the Issuers’ Limited Objection had been resolved and that, as part of the resolution of the Limited Objection, the Debtor would present to the Court an amended and modified version of the protocols governing the Debtor’s continued operations in the ordinary course of its business (the “Amended Operating Protocols”).

PLEASE TAKE FURTHER NOTICE that the Amended Operating Protocols are attached hereto as **Exhibit A**. A redline copy identifying the specific amendments and modifications appearing in the Amended Operating Protocols is attached hereto as **Exhibit B**.

[Remainder of Page Intentionally Left Blank]

² The “Issuers” are a group of 25 separate Cayman issuers of collateralized loan and debt obligations are specifically identified in the Limited Objection.

Dated: February 21, 2020.

PACHULSKI STANG ZIEHL & JONES LLP

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Ira D. Kharasch (CA Bar No. 109084)
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-and-

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**Counsel for the Debtor and
Debtor-in-Possession**

EXHIBIT “A”

I. Definitions

- A. “Court” means the United States Bankruptcy Court for the Northern District of Texas.
- B. “NAV” means (A) with respect to an entity that is not a CLO, the value of such entity’s assets less the value of its liabilities calculated as of the month end prior to any Transaction; and (B) with respect to a CLO, the CLO’s gross assets less expenses calculated as of the quarter end prior to any Transaction.
- C. “Non-Discretionary Account” means an account that is managed by the Debtor pursuant to the terms of an agreement providing, among other things, that the ultimate investment discretion does not rest with the Debtor but with the entity whose assets are being managed through the account.
- D. “Related Entity” means collectively (A)(i) any non-publicly traded third party in which Mr. Dondero, Mr. Okada, or Mr. Grant Scott, or Mr. John Honis (with respect to Messrs. Okada, Scott and Honis, only to the extent known by the Debtor) has any direct or indirect economic or ownership interest, including as a beneficiary of a trust; (ii) any entity controlled directly or indirectly by Mr. Dondero, Mr. Okada, Mr. Grant Scott, or Mr. John Honis (with respect to Messrs. Okada, Scott and Honis, only to the extent known by the Debtor); (iii) MGM Holdings, Inc.; (iv) any publicly traded company with respect to which the Debtor or any Related Entity has filed a Form 13D or Form 13G; (v) any relative (as defined in Section 101 of the Bankruptcy Code) of Mr. Dondero or Mr. Okada each solely to the extent reasonably knowable by the Debtor; (vi) the Hunter Mountain Investment Trust and Dugaboy Investment Trust; (vii) any entity or person that is an insider of the Debtor under Section 101(31) the Bankruptcy Code, including any “non-statutory” insider; and (viii) to the extent not included in (A)(i)-(vii), any entity included in the listing of related entities in **Schedule B** hereto (the “Related Entities Listing”); and (B) the following Transactions, (x) any intercompany Transactions with certain affiliates referred to in paragraphs 16.a through 16.e of the Debtor’s cash management motion [Del. Docket No. 7]; and (y) any Transactions with Charitable DAF Fund, L.P. (provided, however, that additional parties may be added to this subclause (y) with the mutual consent of the Debtor and the Committee, such consent not to be unreasonably withheld).
- E. “Stage 1” means the time period from the date of execution of a term sheet incorporating the protocols contained below the (“Term Sheet”) by all applicable parties until approval of the Term Sheet by the Court.
- F. “Stage 2” means the date from the appointment of a Board of Independent Directors at Strand Advisors, Inc. until 45 days after such appointment, such appointment being effective upon Court approval.
- G. “Stage 3” means any date after Stage 2 while there is a Board of Independent Directors at Strand Advisors, Inc.
- H. “Transaction” means (i) any purchase, sale, or exchange of assets, (ii) any lending or borrowing of money, including the direct payment of any obligations of another entity, (iii) the satisfaction of any capital call or other contractual

requirement to pay money, including the satisfaction of any redemption requests, (iv) funding of affiliates and (v) the creation of any lien or encumbrance.

- I. "Ordinary Course Transaction" means any transaction with any third party which is not a Related Entity and that would otherwise constitute an "ordinary course transaction" under section 363(c) of the Bankruptcy Code.
- J. "Notice" means notification or communication in a written format and shall include supporting documents necessary to evaluate the propriety of the proposed transaction.
- K. "Specified Entity" means any of the following entities: ACIS CLO 2017-7 Ltd., Brentwood CLO, Ltd., Gleneagles CLO, Ltd., Greenbriar CLO, Ltd., Highland CLO 2018-1, Ltd., Highland Legacy Limited, Highland Loan Funding V Ltd., Highland Park CDO I, Ltd., Pam Capital Funding LP, PamCo Cayman Ltd., Rockwall CDO II Ltd., Rockwall CDO Ltd., Southfork CLO Ltd., Stratford CLO Ltd., Westchester CLO, Ltd., Aberdeen Loan Funding, Ltd., Bristol Bay Funding Ltd. Eastland CLO, Ltd., Grayson CLO, Ltd., Highland Credit Opportunities CDO Ltd., Jasper CLO, Ltd., Liberty Cayman Holdings, Ltd., Liberty CLO, Ltd., Red River CLO, Ltd., Valhalla CLO, Ltd.

II. Transactions involving the (i) assets held directly on the Debtor's balance sheet or the balance sheet of the Debtor's wholly-owned subsidiaries, including Jefferies Prime Account, and (ii) the Highland Select Equity Fund, L.P., Highland Multi Strategy Credit Fund, L.P., and Highland Restoration Capital Partners

- A. **Covered Entities:** N/A (See entities above).
- B. **Operating Requirements**
 - 1. Ordinary Course Transactions do not require Court approval (All Stages).
 - a) Stage 1 and Stage 2: ordinary course determined by the CRO.
 - b) Stage 3: ordinary course determined by the Debtor.
 - 2. Related Entity Transactions
 - a) Stage 1 and Stage 2: Transactions with Related Entities require prior approval of CRO and five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - b) Stage 3:
 - (1) Transactions with Related Entities greater than \$1,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

- (2) Transactions with Related Entities greater than \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require Court approval, which the Committee agrees may be sought on an expedited basis.

3. Third Party Transactions (All Stages)

- a) Except as set forth in (b) and (c) below, Transactions in excess of \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require three business days advance notice to Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- b) The Debtor may satisfy any redemption requests from entities that are not Related Entities without advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable. The Debtor will provide the Committee with five business days advance notice of any redemption requests made by and payable to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- c) The Debtor may satisfy margin calls and short covers without providing the Committee advance notice if the exigencies do not allow advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable.

- C. **Weekly Reporting:** The Debtor will provide the Committee with weekly reports showing all Transactions under this category.

III. Transactions involving entities the Debtor manages and in which the Debtor holds a direct or indirect interest (other than the entities discussed in Section I above)

- A. **Covered Entities:** See Schedule A hereto. Schedule A includes or will include all entities the Debtor manages and in which the Debtor holds a direct or indirect interest (other than the entities discussed in Section I above).¹

B. Operating Requirements

1. Ordinary Course Transactions do not require Court approval (All Stages).
 - a) Stage 1 and Stage 2: ordinary course determined by the CRO.
 - b) Stage 3: ordinary course determined by the Debtor.
2. Related Entity Transactions

¹ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

a) Stage 1 and Stage 2: Transactions with Related Entities require prior approval of CRO and five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

b) Stage 3:

(1) Transactions with Related Entities greater than \$1,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

(2) Transactions with Related Entities greater than \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require Court approval, which the Committee agrees may be sought on an expedited basis.

3. Third Party Transactions (All Stages)

a) Except as set forth in (b) and (c) below, Transactions in excess of \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require three business days advance notice to Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

b) The Debtor may satisfy any redemption requests from entities that are not Related Entities without advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable. The Debtor will provide the Committee with five business days advance notice of any redemption requests made by and payable to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

c) The Debtor may satisfy margin calls and short covers without providing the Committee advance notice if the exigencies do not allow advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable.

C. **Weekly Reporting:** The Debtor will provide the Committee with weekly reports showing all Transactions under this category.

IV. Transactions involving entities that the Debtor manages but in which the Debtor does not hold a direct or indirect interest

A. **Covered Entities:** See Schedule A hereto. Schedule A includes or will include all entities that the Debtor manages but in which the Debtor does not hold a direct or indirect interest.²

B. Operating Requirements

1. Ordinary Course Transactions do not require Court approval (All Stages).
 - a) Stage 1 and Stage 2: ordinary course determined by the CRO.
 - b) Stage 3: ordinary course determined by the Debtor.
2. Related Entity Transactions
 - a) Stage 1 and Stage 2: Transactions with Related Entities require prior approval of CRO and five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - b) Stage 3:
 - (1) Transactions with Related Entities greater than \$1,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - (2) Transactions with Related Entities greater than \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require Court approval, which the Committee agrees may be sought on an expedited basis.
3. Third Party Transactions (All Stages):
 - a) Except (x) as set forth in (b) and (c) below and (y) for any Transaction involving a Specified Entity and the sale or purchase by such Specified Entity of an asset that is not an obligation or security issued or guaranteed by any of the Debtor, a Related Entity or a fund, account, portfolio company owned, controlled or managed by the Debtor or a Related Entity, where such Transaction is effected in compliance with the collateral management agreement to which such Specified Entity is party, any Transaction that decreases the NAV of an entity managed by the Debtor in excess of the greater of (i) 10% of NAV or (ii) \$3,000,000 requires five business days advance notice to

² The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

- b) The Debtor may satisfy any redemption requests from entities that are not Related Entities without advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable. The Debtor will provide the Committee with five business days advance notice of any redemption requests made by and payable to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- c) The Debtor may take such steps as may be reasonably necessary to winddown any managed entity and make distributions as may be required in connection with such winddown to any required parties. The Debtor will provide the Committee with five business days advance notice of any distributions to be made to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

C. **Weekly Reporting:** The Debtor will provide the Committee with weekly reports showing all Transactions under this category. Such reports will include Transactions involving a Specified Entity unless the Debtor is prohibited from doing so under applicable law or regulation or any agreement governing the Debtor's relationship with such Specified Entity.

V. Transactions involving entities that the Debtor does not manage but in which the Debtor holds a direct or indirect interest

- A. Covered Entities: See Schedule A hereto. Schedule A includes or will include all entities that the Debtor does not manage but in which the Debtor holds a direct or indirect interest.³
- B. Ordinary Course Transactions (All Stages): N/A
- C. Operating Requirements: N/A
- D. Weekly Reporting: Debtor will provide weekly reports of all cross-held asset Transactions, i.e. Transactions in which the Debtor or a Related Entity also holds a direct or indirect interest.

³ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

VI. Transactions involving entities that the Debtor does not manage and in which the Debtor does not hold a direct or indirect interest

- A. Covered Entities: See Schedule A hereto. Schedule A includes or will include all entities that the Debtor does not manage and in which the Debtor does not hold a direct or indirect interest.⁴
- B. Ordinary Course Transactions (All Stages): N/A
- C. Operating Requirements: N/A
- D. Weekly Reporting: Debtor will provide weekly reports of all cross-held asset Transactions, i.e. Transactions in which the Debtor or a Related Entity also holds a direct or indirect interest.

VII. Transactions involving Non-Discretionary Accounts

- A. Covered Entities: See Schedule A hereto. Schedule A includes or will include all non-discretionary accounts.⁵
- B. Ordinary Course Transactions (All Stages): N/A
- C. Operating Requirements: N/A
- D. Weekly Reporting: Debtor will provide weekly reports of all cross-held asset Transactions, i.e. Transactions in which the Debtor or a Related Entity also holds a direct or indirect interest.

VIII. Additional Reporting Requirements – All Stages (to the extent applicable)

- A. DSI will provide detailed lists and descriptions of internal financial and operational controls being applied on a daily basis for a full understanding by the Committee and its professional advisors three (3) business days in advance of the hearing on the approval of the Term Sheet and details of proposed amendments to said financial and operational controls no later than seven (7) days prior to their implementation.
- B. The Debtor will continue to provide weekly budget to actuals reports referencing their 13-week cash flow budget, such reports to be inclusive of all Transactions with Related Entities.

IX. Shared Services

- A. The Debtor shall not modify any shared services agreement without approval of the CRO and Independent Directors and seven business days' advance notice to counsel for the Committee.
- B. The Debtor may otherwise continue satisfying its obligations under the shared services agreements.

⁴ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

⁵ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

X. Representations and Warranties

- A. The Debtor represents that the Related Entities Listing included as **Schedule B** attached hereto lists all known persons and entities other than natural persons included in the definitions of Related Entities covered by Section I.D parts A(i)-(vii) above at the time of the execution of the Term Sheet.
- B. The Debtor represents that the list included as **Schedule C** attached hereto lists all known natural persons included in the definitions of Related Entities covered by Section I.D parts A(i)-(vii) above at the time of the execution of the Term Sheet.
- C. The Debtor represents that, if at any time the Debtor becomes aware of any person or entity, including natural persons, meeting the definition of Related Entities covered by Section I.D parts A(1)-(vii) above that is not included in the Related Entities Listing or Schedule C, the Debtor shall update the Related Entities Listing or Schedule C, as appropriate, to include such entity or person and shall give notice to the Committee thereof.

Schedule A⁶

Entities the Debtor manages and in which the Debtor holds a direct or indirect interest

1. Highland CLO Funding, Ltd. (0.63% Ownership Interest)
2. Dynamic Income Fund (0.26% Ownership Interest)

Entities that the Debtor manages but in which the Debtor does not hold a direct or indirect interest

1. Highland Prometheus Master Fund L.P.
2. NexAnnuity Life Insurance Company
3. PensionDanmark
4. Highland Argentina Regional Opportunity Fund
5. Longhorn A
6. Longhorn B
7. Collateralized Loan Obligations
 - a) Rockwall II CDO Ltd.
 - b) Grayson CLO Ltd.
 - c) Eastland CLO Ltd.
 - d) Westchester CLO, Ltd.
 - e) Brentwood CLO Ltd.
 - f) Greenbriar CLO Ltd.
 - g) Highland Park CDO Ltd.
 - h) Liberty CLO Ltd.
 - i) Gleneagles CLO Ltd.
 - j) Stratford CLO Ltd.
 - k) Jasper CLO Ltd.
 - l) Rockwall DCO Ltd.
 - m) Red River CLO Ltd.
 - n) Hi V CLO Ltd.
 - o) Valhalla CLO Ltd.
 - p) Aberdeen CLO Ltd.
 - q) South Fork CLO Ltd.
 - r) Legacy CLO Ltd.
 - s) Pam Capital
 - t) Pamco Cayman

Entities that the Debtor does not manage but in which the Debtor holds a direct or indirect interest

1. Highland Opportunistic Credit Fund
2. Highland Healthcare Opportunities Fund f/k/a Highland Long/Short Healthcare Fund
3. NexPoint Real Estate Strategies Fund
4. Highland Merger Arbitrage Fund
5. NexPoint Strategic Opportunities Fund
6. Highland Small Cap Equity Fund
7. Highland Global Allocation Fund

⁶ NTD: Schedule A is work in process and may be supplemented or amended.

8. Highland Socially Responsible Equity Fund
9. Highland Income Fund
10. Stonebridge-Highland Healthcare Private Equity Fund (“Korean Fund”)
11. SE Multifamily, LLC

Entities that the Debtor does not manage and in which the Debtor does not hold a direct or indirect interest

1. The Dugaboy Investment Trust
2. NexPoint Capital LLC
3. NexPoint Capital, Inc.
4. Highland IBoxx Senior Loan ETF
5. Highland Long/Short Equity Fund
6. Highland Energy MLP Fund
7. Highland Fixed Income Fund
8. Highland Total Return Fund
9. NexPoint Advisors, L.P.
10. Highland Capital Management Services, Inc.
11. Highland Capital Management Fund Advisors L.P.
12. ACIS CLO Management LLC
13. Governance RE Ltd
14. PCMG Trading Partners XXIII LP
15. NexPoint Real Estate Partners, LLC f/k/a HCRE Partners LLC
16. NexPoint Real Estate Advisors II LP
17. NexPoint Healthcare Opportunities Fund
18. NexPoint Securities
19. Highland Diversified Credit Fund
20. BB Votorantim Highland Infrastructure LLC
21. ACIS CLO 2017 Ltd.

Transactions involving Non-Discretionary Accounts

1. NexBank SSB Account
2. Charitable DAF Fund LP

Schedule B

Related Entities Listing (other than natural persons)

Schedule C

1. James Dondero
2. Mark Okada
3. Grant Scott
4. John Honis
5. Nancy Dondero
6. Pamela Okada
7. Thomas Surgent
8. Scott Ellington
9. Frank Waterhouse
10. Lee (Trey) Parker

EXHIBIT “B”

I. Definitions

- A. “Court” means the United States Bankruptcy Court for the Northern District of Texas.
- B. “NAV” means (A) with respect to an entity that is not a CLO, the value of such entity’s assets less the value of its liabilities calculated as of the month end prior to any Transaction; and (B) with respect to a CLO, the CLO’s gross assets less expenses calculated as of the quarter end prior to any Transaction.
- C. “Non-Discretionary Account” means an account that is managed by the Debtor pursuant to the terms of an agreement providing, among other things, that the ultimate investment discretion does not rest with the Debtor but with the entity whose assets are being managed through the account.
- D. “Related Entity” means collectively (A)(i) any non-publicly traded third party in which Mr. Dondero, Mr. Okada, or Mr. Grant Scott, or Mr. John Honis (with respect to Messrs. Okada, Scott and Honis, only to the extent known by the Debtor) has any direct or indirect economic or ownership interest, including as a beneficiary of a trust; (ii) any entity controlled directly or indirectly by Mr. Dondero, Mr. Okada, Mr. Grant Scott, or Mr. John Honis (with respect to Messrs. Okada, Scott and Honis, only to the extent known by the Debtor); (iii) MGM Holdings, Inc.; (iv) any publicly traded company with respect to which the Debtor or any Related Entity has filed a Form 13D or Form 13G; (v) any relative (as defined in Section 101 of the Bankruptcy Code) of Mr. Dondero or Mr. Okada each solely to the extent reasonably knowable by the Debtor; (vi) the Hunter Mountain Investment Trust and Dugaboy Investment Trust; (vii) any entity or person that is an insider of the Debtor under Section 101(31) the Bankruptcy Code, including any “non-statutory” insider; and (viii) to the extent not included in (A)(i)-(vii), any entity included in the listing of related entities in **Schedule B** hereto (the “Related Entities Listing”); and (B) the following Transactions, (x) any intercompany Transactions with certain affiliates referred to in paragraphs 16.a through 16.e of the Debtor’s cash management motion [Del. Docket No. 7]; and (y) any Transactions with Charitable DAF Fund, L.P. (provided, however, that additional parties may be added to this subclause (y) with the mutual consent of the Debtor and the Committee, such consent not to be unreasonably withheld).
- E. “Stage 1” means the time period from the date of execution of a term sheet incorporating the protocols contained below the (“Term Sheet”) by all applicable parties until approval of the Term Sheet by the Court.
- F. “Stage 2” means the date from the appointment of a Board of Independent Directors at Strand Advisors, Inc. until 45 days after such appointment, such appointment being effective upon Court approval.
- G. “Stage 3” means any date after Stage 2 while there is a Board of Independent Directors at Strand Advisors, Inc.
- H. “Transaction” means (i) any purchase, sale, or exchange of assets, (ii) any lending or borrowing of money, including the direct payment of any obligations of another entity, (iii) the satisfaction of any capital call or other contractual

requirement to pay money, including the satisfaction of any redemption requests, (iv) funding of affiliates and (v) the creation of any lien or encumbrance.

- I. "Ordinary Course Transaction" means any transaction with any third party which is not a Related Entity and that would otherwise constitute an "ordinary course transaction" under section 363(c) of the Bankruptcy Code.
- J. "Notice" means notification or communication in a written format and shall include supporting documents necessary to evaluate the propriety of the proposed transaction.
- K. "Specified Entity" means any of the following entities: ACIS CLO 2017-7 Ltd., Brentwood CLO, Ltd., Gleneagles CLO, Ltd., Greenbriar CLO, Ltd., Highland CLO 2018-1, Ltd., Highland Legacy Limited, Highland Loan Funding V Ltd., Highland Park CDO I, Ltd., Pam Capital Funding LP, PamCo Cayman Ltd., Rockwall CDO II Ltd., Rockwall CDO Ltd., Southfork CLO Ltd., Stratford CLO Ltd., Westchester CLO, Ltd., Aberdeen Loan Funding, Ltd., Bristol Bay Funding Ltd. Eastland CLO, Ltd., Grayson CLO, Ltd., Highland Credit Opportunities CDO Ltd., Jasper CLO, Ltd., Liberty Cayman Holdings, Ltd., Liberty CLO, Ltd., Red River CLO, Ltd., Valhalla CLO, Ltd.

II. Transactions involving the (i) assets held directly on the Debtor's balance sheet or the balance sheet of the Debtor's wholly-owned subsidiaries, including Jefferies Prime Account, and (ii) the Highland Select Equity Fund, L.P., Highland Multi Strategy Credit Fund, L.P., and Highland Restoration Capital Partners

- A. **Covered Entities:** N/A (See entities above).
- B. **Operating Requirements**
 - 1. Ordinary Course Transactions do not require Court approval (All Stages).
 - a) Stage 1 and Stage 2: ordinary course determined by the CRO.
 - b) Stage 3: ordinary course determined by the Debtor.
 - 2. Related Entity Transactions
 - a) Stage 1 and Stage 2: Transactions with Related Entities require prior approval of CRO and five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - b) Stage 3:
 - (1) Transactions with Related Entities greater than \$1,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

- (2) Transactions with Related Entities greater than \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require Court approval, which the Committee agrees may be sought on an expedited basis.

3. Third Party Transactions (All Stages)

- a) Except as set forth in (b) and (c) below, Transactions in excess of \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require three business days advance notice to Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- b) The Debtor may satisfy any redemption requests from entities that are not Related Entities without advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable. The Debtor will provide the Committee with five business days advance notice of any redemption requests made by and payable to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- c) The Debtor may satisfy margin calls and short covers without providing the Committee advance notice if the exigencies do not allow advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable.

- C. **Weekly Reporting:** The Debtor will provide the Committee with weekly reports showing all Transactions under this category.

III. Transactions involving entities the Debtor manages and in which the Debtor holds a direct or indirect interest (other than the entities discussed in Section I above)

- A. **Covered Entities:** See Schedule A hereto. Schedule A includes or will include all entities the Debtor manages and in which the Debtor holds a direct or indirect interest (other than the entities discussed in Section I above).¹

B. Operating Requirements

1. Ordinary Course Transactions do not require Court approval (All Stages).
 - a) Stage 1 and Stage 2: ordinary course determined by the CRO.
 - b) Stage 3: ordinary course determined by the Debtor.
2. Related Entity Transactions

¹ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

- a) Stage 1 and Stage 2: Transactions with Related Entities require prior approval of CRO and five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- b) Stage 3:
 - (1) Transactions with Related Entities greater than \$1,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - (2) Transactions with Related Entities greater than \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require Court approval, which the Committee agrees may be sought on an expedited basis.

3. **Third Party Transactions (All Stages)**

- a) Except as set forth in (b) and (c) below, Transactions in excess of \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require three business days advance notice to Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- b) The Debtor may satisfy any redemption requests from entities that are not Related Entities without advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable. The Debtor will provide the Committee with five business days advance notice of any redemption requests made by and payable to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- c) The Debtor may satisfy margin calls and short covers without providing the Committee advance notice if the exigencies do not allow advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable.

C. **Weekly Reporting:** The Debtor will provide the Committee with weekly reports showing all Transactions under this category.

IV. Transactions involving entities that the Debtor manages but in which the Debtor does not hold a direct or indirect interest

- A. **Covered Entities:** See Schedule A hereto. Schedule A includes or will include all entities that the Debtor manages but in which the Debtor does not hold a direct or indirect interest.²
- B. **Operating Requirements**
1. Ordinary Course Transactions do not require Court approval (All Stages).
 - a) Stage 1 and Stage 2: ordinary course determined by the CRO.
 - b) Stage 3: ordinary course determined by the Debtor.
 2. Related Entity Transactions
 - a) Stage 1 and Stage 2: Transactions with Related Entities require prior approval of CRO and five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - b) Stage 3:
 - (1) Transactions with Related Entities greater than \$1,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - (2) Transactions with Related Entities greater than \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require Court approval, which the Committee agrees may be sought on an expedited basis.
 3. Third Party Transactions (All Stages):
 - a) Except (x) as set forth in (b) and (c) below and (y) for any Transaction involving a Specified Entity and the sale or purchase by such Specified Entity of an asset that is not an obligation or security issued or guaranteed by any of the Debtor, a Related Entity or a fund, account, portfolio company owned, controlled or managed by the Debtor or a Related Entity, where such Transaction is effected in compliance with the collateral management agreement to which such Specified Entity is party, any Transaction that decreases the NAV of an entity managed by the Debtor in excess of the greater of (i) 10% of NAV or (ii) \$3,000,000 requires five business days advance notice to Committee and if the Committee objects, the burden is on the

² The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

- b) The Debtor may satisfy any redemption requests from entities that are not Related Entities without advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable. The Debtor will provide the Committee with five business days advance notice of any redemption requests made by and payable to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- c) The Debtor may take such steps as may be reasonably necessary to winddown any managed entity and make distributions as may be required in connection with such winddown to any required parties. The Debtor will provide the Committee with five business days advance notice of any distributions to be made to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

C. **Weekly Reporting:** The Debtor will provide the Committee with weekly reports showing all Transactions under this category. Such reports will include Transactions involving a Specified Entity unless the Debtor is prohibited from doing so under applicable law or regulation or any agreement governing the Debtor's relationship with such Specified Entity.

V. Transactions involving entities that the Debtor does not manage but in which the Debtor holds a direct or indirect interest

- A. Covered Entities: See **Schedule A** hereto. **Schedule A** includes or will include all entities that the Debtor does not manage but in which the Debtor holds a direct or indirect interest.³
- B. Ordinary Course Transactions (All Stages): N/A
- C. Operating Requirements: N/A
- D. Weekly Reporting: Debtor will provide weekly reports of all cross-held asset Transactions, i.e. Transactions in which the Debtor or a Related Entity also holds a direct or indirect interest.

VI. Transactions involving entities that the Debtor does not manage and in which the Debtor does not hold a direct or indirect interest

³ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

- A. Covered Entities: See **Schedule A** hereto. **Schedule A** includes or will include all entities that the Debtor does not manage and in which the Debtor does not hold a direct or indirect interest.⁴
- B. Ordinary Course Transactions (All Stages): N/A
- C. Operating Requirements: N/A
- D. Weekly Reporting: Debtor will provide weekly reports of all cross-held asset Transactions, i.e. Transactions in which the Debtor or a Related Entity also holds a direct or indirect interest.

VII. Transactions involving Non-Discretionary Accounts

- A. Covered Entities: See **Schedule A** hereto. **Schedule A** includes or will include all non-discretionary accounts.⁵
- B. Ordinary Course Transactions (All Stages): N/A
- C. Operating Requirements: N/A
- D. Weekly Reporting: Debtor will provide weekly reports of all cross-held asset Transactions, i.e. Transactions in which the Debtor or a Related Entity also holds a direct or indirect interest.

VIII. Additional Reporting Requirements – All Stages (to the extent applicable)

- A. DSI will provide detailed lists and descriptions of internal financial and operational controls being applied on a daily basis for a full understanding by the Committee and its professional advisors three (3) business days in advance of the hearing on the approval of the Term Sheet and details of proposed amendments to said financial and operational controls no later than seven (7) days prior to their implementation.
- B. The Debtor will continue to provide weekly budget to actuals reports referencing their 13-week cash flow budget, such reports to be inclusive of all Transactions with Related Entities.

IX. Shared Services

- A. The Debtor shall not modify any shared services agreement without approval of the CRO and Independent Directors and seven business days' advance notice to counsel for the Committee.
- B. The Debtor may otherwise continue satisfying its obligations under the shared services agreements.

⁴ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

⁵ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

X. Representations and Warranties

- A. The Debtor represents that the Related Entities Listing included as **Schedule B** attached hereto lists all known persons and entities other than natural persons included in the definitions of Related Entities covered by Section I.D parts A(i)-(vii) above at the time of the execution of the Term Sheet.
- B. The Debtor represents that the list included as **Schedule C** attached hereto lists all known natural persons included in the definitions of Related Entities covered by Section I.D parts A(i)-(vii) above at the time of the execution of the Term Sheet.
- C. The Debtor represents that, if at any time the Debtor becomes aware of any person or entity, including natural persons, meeting the definition of Related Entities covered by Section I.D parts A(1)-(vii) above that is not included in the Related Entities Listing or Schedule C, the Debtor shall update the Related Entities Listing or Schedule C, as appropriate, to include such entity or person and shall give notice to the Committee thereof.

Schedule A⁶

Entities the Debtor manages and in which the Debtor holds a direct or indirect interest

1. Highland CLO Funding, Ltd. (0.63% Ownership Interest)
2. Dynamic Income Fund (0.26% Ownership Interest)

Entities that the Debtor manages but in which the Debtor does not hold a direct or indirect interest

1. Highland Prometheus Master Fund L.P.
2. NexAnnuity Life Insurance Company
3. PensionDanmark
4. Highland Argentina Regional Opportunity Fund
5. Longhorn A
6. Longhorn B
7. Collateralized Loan Obligations
 - a) Rockwall II CDO Ltd.
 - b) Grayson CLO Ltd.
 - c) Eastland CLO Ltd.
 - d) Westchester CLO, Ltd.
 - e) Brentwood CLO Ltd.
 - f) Greenbriar CLO Ltd.
 - g) Highland Park CDO Ltd.
 - h) Liberty CLO Ltd.
 - i) Gleneagles CLO Ltd.
 - j) Stratford CLO Ltd.
 - k) Jasper CLO Ltd.
 - l) Rockwall DCO Ltd.
 - m) Red River CLO Ltd.
 - n) Hi V CLO Ltd.
 - o) Valhalla CLO Ltd.
 - p) Aberdeen CLO Ltd.
 - q) South Fork CLO Ltd.
 - r) Legacy CLO Ltd.
 - s) Pam Capital
 - t) Pamco Cayman

Entities that the Debtor does not manage but in which the Debtor holds a direct or indirect interest

1. Highland Opportunistic Credit Fund
2. Highland Healthcare Opportunities Fund f/k/a Highland Long/Short Healthcare Fund
3. NexPoint Real Estate Strategies Fund
4. Highland Merger Arbitrage Fund
5. NexPoint Strategic Opportunities Fund
6. Highland Small Cap Equity Fund
7. Highland Global Allocation Fund

⁶ NTD: Schedule A is work in process and may be supplemented or amended.

8. Highland Socially Responsible Equity Fund
9. Highland Income Fund
10. Stonebridge-Highland Healthcare Private Equity Fund (“Korean Fund”)
11. SE Multifamily, LLC

Entities that the Debtor does not manage and in which the Debtor does not hold a direct or indirect interest

1. The Dugaboy Investment Trust
2. NexPoint Capital LLC
3. NexPoint Capital, Inc.
4. Highland IBoxx Senior Loan ETF
5. Highland Long/Short Equity Fund
6. Highland Energy MLP Fund
7. Highland Fixed Income Fund
8. Highland Total Return Fund
9. NexPoint Advisors, L.P.
10. Highland Capital Management Services, Inc.
11. Highland Capital Management Fund Advisors L.P.
12. ACIS CLO Management LLC
13. Governance RE Ltd
14. PCMG Trading Partners XXIII LP
15. NexPoint Real Estate Partners, LLC f/k/a HCRE Partners LLC
16. NexPoint Real Estate Advisors II LP
17. NexPoint Healthcare Opportunities Fund
18. NexPoint Securities
19. Highland Diversified Credit Fund
20. BB Votorantim Highland Infrastructure LLC
21. ACIS CLO 2017 Ltd.

Transactions involving Non-Discretionary Accounts

1. NexBank SSB Account
2. Charitable DAF Fund LP

Schedule B

Related Entities Listing (other than natural persons)

Schedule C

1. James Dondero
2. Mark Okada
3. Grant Scott
4. John Honis
5. Nancy Dondero
6. Pamela Okada
7. Thomas Surgent
8. Scott Ellington
9. Frank Waterhouse
10. Lee (Trey) Parker

Summary report: Litéra® Change-Pro TDC 10.1.0.300 Document comparison done on 2/3/2020 1:05:23 PM	
Style name: Sidley Default	
Intelligent Table Comparison: Active	
Original filename: DOCS_NY-#39943-v15-Highland_- Discussion Outline for Protocols.docx	
Modified filename: DOCS_NY-#39943-v15-Highland_- Discussion Outline for Protocols 2.docx	
Changes:	
Add	5
Delete	0
Move From	0
Move To	0
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	5

EXHIBIT 19

Preliminary Term Sheet

Highland Capital Management, L.P.

Preliminary Term Sheet

This term sheet (“Term Sheet”) outlines the principal terms of a proposed settlement between Highland Capital Management, L.P. (the “Debtor”) and the Official Committee of Unsecured Creditors (the “Committee”) in the chapter 11 case captioned In re Highland Capital Mgm’t, L.P., Case No. 19-34054 (SGJ) (the “Chapter 11 Case”), pending in the Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”), to resolve a good faith dispute between the parties related to the Debtor’s corporate governance, and specifically, the Committee’s various objections to certain relief being sought by the Debtors in the Chapter 11 Case [Del. Docket No. 125]. This Term Sheet shall be subject to approval by the Bankruptcy Court.

Topic	Proposed Terms
Parties	<p>Highland Capital Management, L.P. (the “<u>Debtor</u>”).</p> <p>The Official Committee of Unsecured Creditors of Highland Capital Management, L.P. (the “<u>Committee</u>”).</p>
Independent Directors	<p>The Debtor’s general partner, Strand Advisors, Inc., will appoint the following three (3) independent directors (the “<u>Independent Directors</u>”): James Seery, John Dubel, and a third director to be selected by or otherwise acceptable to the Committee. The Independent Directors will be granted exclusive control over the Debtor and its operations. Among other things, the Independent Directors shall conduct a review of all current employees as soon as practicable following the Independent Directors’ appointment, determine whether and which employees should be subject to a key employee retention plan and/or key employee incentive plan and, if applicable, propose plan(s) covering such employees. The appointment and powers of the Independent Directors and the corporate governance structure shall be pursuant to the documents attached hereto as <u>Exhibit A</u>, which documents shall be satisfactory to the Committee. Once appointed, the Independent Directors (i) cannot be removed without the Committee’s written consent or Order of the Court, and (ii) may be removed and replaced at the Committee’s direction upon approval of the Court (subject in all respects to the right of any party in interest, including the Debtor and the Independent Directors, to object to such removal and replacement).</p> <p>The Independent Directors shall be compensated in a manner to be determined with an understanding that the</p>

	<p>source of funding, whether directly or via reimbursement, will be the Debtor.</p> <p>As soon as practicable after their appointments, the Independent Directors shall, in consultation with the Committee, determine whether an interim Chief Executive Officer (the “<u>CEO</u>”) should be appointed for the Debtor. If the Independent Directors determine that appointment of a CEO is appropriate, the Independent Directors shall appoint a CEO acceptable to the Committee as soon as practicable, which may be one of the Independent Directors. Once appointed, the CEO cannot be removed without the Committee’s written consent or Order of the Court.</p> <p>The Committee shall have regular, direct access to the Independent Directors, <u>provided, however</u> that (1) if the communications include FTI Consulting Inc. (“<u>FTI</u>”), Development Specialists Inc. (“<u>DSI</u>”) shall also participate in such communications; and (2) if the communications include counsel, then either Debtor’s counsel or, if retained, counsel to the Independent Directors shall also participate in such communications.</p>
Role of Mr. James Dondero	<p>Upon approval of this Term Sheet by the Bankruptcy Court, Mr. Dondero will (1) resign from his position as a Board of Director of Strand Advisors, Inc., (2) resign as an officer of Strand Advisors, Inc., and (3) resign as an employee of the Debtor.</p>
CRO	<p>DSI shall, subject to approval of the Bankruptcy Court, be retained as chief restructuring officer (“<u>CRO</u>”) to the Debtor and report to and be directed by the Independent Directors and, if and once appointed, the CEO. The retention and scope of duties of DSI shall be pursuant to the Further Amended Retention Agreement, attached hereto as <u>Exhibit B</u>.</p> <p>DSI and all other Debtor professionals shall serve at the direction of the CEO, if any, and the Independent Directors.</p>
Estate Claims	<p>The Committee is granted standing to pursue any and all estate claims and causes of action against Mr. Dondero, Mr. Okada, other insiders of the Debtor, and each of the Related Entities, including any promissory notes held by any of the foregoing (collectively, the “<u>Estate Claims</u>”); provided, however, that the term Estate Claims will not</p>

	include any estate claim or cause of action against any then-current employee of the Debtor.
Document Management, Preservation, and Production	<p>The Debtor shall be subject to and comply with the document management, preservation, and production requirements attached hereto as <u>Exhibit C</u>, which requirements cannot be modified without the consent of the Committee or Court order (the “<u>Document Production Protocol</u>”).</p> <p>Solely with respect to the investigation and pursuit of Estate Claims, the document production protocol will acknowledge that the Committee will have access to the privileged documents and communications that are within the Debtor’s possession, custody, or control (“<u>Shared Privilege</u>”).</p> <p>With respect to determining if any particular document is subject to the Shared Privilege, the following process shall be followed: (i) the Committee will request documents from the Debtor, (ii) the Debtor shall log all documents requested but withheld on the basis of privilege, (iii) the Debtor shall not withhold documents it understands to be subject to the Shared Privilege; (iv) the Committee will identify each additional document on the log that the Committee believes is subject to the Shared Privilege, and (v) a special master or other third party neutral agreed to by the Committee and the Debtor shall make a determination if such documents are subject to the Shared Privilege. The Committee further agrees that the production of any particular document by the Debtor under this process will not be used as a basis for a claim of subject matter waiver.</p>
Reporting Requirements	The Debtor shall be subject to and comply with the reporting requirements attached hereto as <u>Exhibit D</u> , which reporting requirements cannot be modified without the consent of the Committee or Court order (the “ <u>Reporting Requirements</u> ”).
Plan Exclusivity	The Independent Directors may elect to waive the Debtor’s exclusive right to file a plan under section 1121 of the Bankruptcy Code.
Operating Protocols	The Debtor shall comply with the operating protocols set forth in <u>Exhibit D</u> hereto, regarding the Debtor’s operation in the ordinary course of business, which protocols cannot be modified without the consent of the Committee or Court order.

Reservation of Rights	This agreement is without prejudice to the Committee's rights to, among other things, seek the appointment of a trustee or examiner at a later date. Nothing herein shall constitute or be construed as a waiver of any right of the Debtor or any other party in interest to contest the appointment of a trustee or examiner, and all such rights are expressly reserved.
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Exhibit A

Debtor's Corporate Governance Documents

Exhibit B

Amended DSI Retention Letter

Exhibit C

Document Production Protocol

*PSZJ Revisions 12/23/19
Privileged & Confidential
Subject to FRE 408*

Exhibit D

Reporting Requirements

WRITTEN CONSENT OF SOLE STOCKHOLDER AND DIRECTOR

OF

STRAND ADVISORS, INC.

[____]

Pursuant to the provisions of the General Corporation Law of the State of Delaware (the “DGCL”) and consistent with the provisions of the Certificate of Incorporation (the “Certificate”) and Bylaws (the “Bylaws”) of Strand Advisors, Inc., a Delaware corporation (the “Company”), the undersigned, being the holder of all of the issued and outstanding shares of common stock, par value \$0.01 per share, of the Company and the sole director of the Company (the “Stockholder”), acting by written consent without a meeting pursuant to Section 228 of the DGCL and Article IV, Section 6, and Article XII of the Bylaws, does hereby consent to the adoption of the following resolutions and to the taking of the actions contemplated thereby, in each case with the same force and effect as if presented to and adopted at a meeting of the stockholders:

I. AMENDMENT OF BYLAWS

WHEREAS, it is acknowledged that the Board of Directors of the Company (the “Board”) has heretofore been fixed at one (1) and that the Board currently consists of James Dondero;

WHEREAS, pursuant to Article XII of the Bylaws, the Stockholder wishes to amend the Bylaws in the manner set forth on **Appendix A** hereto (the “Bylaws Amendment”) to increase the size of the Board from one (1) to three (3) directors; and

NOW, THEREFORE, BE IT RESOLVED, that the Bylaws Amendment is hereby authorized and approved and the Board is increased from one (1) to three (3) directors;

RESOLVED FURTHER, that any officer of the Company is authorized to take any such actions as may be required to effectuate the Bylaws Amendment; and

RESOLVED FURTHER, that any action taken by any officer of the Company on or prior to the date hereof to effectuate such Bylaws Amendment is hereby authorized and affirmed.

II. ELECTION OF DIRECTORS

WHEREAS, the Stockholder desires to appoint James Seery, John Dubel, and _____ to the Board and desires that such individuals constitute the whole Board;

NOW, THEREFORE, BE IT RESOLVED, that James Seery, John Dubel, and _____, having consented to act as such, be, and each of them hereby is, appointed as a director, to serve as a director of the Company and to hold such office until such director’s respective successor shall have been duly elected or appointed and shall qualify, or until such director’s death, resignation or removal;

RESOLVED FURTHER, that any officer of the Company is authorized to take any such actions as

may be required to effectuate the appointment of the foregoing directors, including executing an indemnification agreement in favor of such directors in substantially the form attached hereto as **Appendix B** (each, an “Indemnification Agreement”);

RESOLVED FURTHER, that any action taken by any officer of the Company on or prior to the date hereof to effectuate the appointment of such directors, including the execution of an Indemnification Agreement, is hereby authorized and affirmed.

RESOLVED FURTHER, that James Dondero and any other directors of the Company are hereby removed as directors of the Company;

RESOLVED FURTHER, that the directors appointed pursuant to these resolutions shall, pursuant to the terms of the Bylaws, appoint a Chairman of the Board.

III. STIPULATION WITH THE BANKRUPTCY COURT

WHEREAS, on October 16, 2019, Highland Capital Management, L.P. (“HCMLP”) filed for chapter 11 bankruptcy protection in the Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the “Bankruptcy Case”);

WHEREAS, the Company is the general partner for HCMLP;

WHEREAS, the Bankruptcy Case was transferred to the Bankruptcy Court for the Northern District of Texas, Case No. 19-34054-sgj11 (the “Texas Court”) by order of the Bankruptcy Court for the District of Delaware on December 4, 2019;

WHEREAS, the Company and the Stockholder wish to enter into a stipulation with HCMLP and the Official Unsecured Creditors Committee appointed in the Bankruptcy Case (the “Committee”), such stipulation to be approved by the Texas Court, whereby the Stockholder will agree (a) not to transfer or assign his shares in the Company or exercise the voting power of such shares to remove any member of the Board appointed pursuant to these resolutions or further change the authorized number of directors from three (3) directors; (b) to exercise the voting power of his shares so as to cause each member of the Board appointed by this resolutions to be re-elected at upon the expiration of his or her term; and (c) upon the death, disability, or resignation of _____, will exercise the voting power of such shares so as to cause the resulting vacancy to be filled by a successor that is both independent and acceptable to the Stockholder and the Committee (the “Stipulation”);

WHEREAS, for purposes of the Stipulation, “independent” would exclude the Stockholder, any affiliate of the Stockholder, and any member of management of the Company; and

WHEREAS, it is in the intent of the parties that the Stipulation will no longer be effective or bind Strand or the Stockholder following the termination of the Bankruptcy Case.

NOW, THEREFORE, BE IT RESOLVED, that the Company is authorized to take such actions as may be necessary to enter into and effectuate the Stipulation in the manner and on the terms set forth above, including, but not limited to, further amending the Certificate, Bylaws, or any other corporate governance documents; and

RESOLVED FURTHER, that Scott Ellington, as an officer of the Company, is authorized to take any such actions as may be required to enter into and effectuate the Stipulation in the manner set forth herein; and

RESOLVED FURTHER, that any action taken by Scott Ellington or any other officer of the Company on or prior to the date hereof to effectuate such Stipulation is hereby authorized and affirmed.

[Signature pages follow.]

IN WITNESS WHEREOF, the undersigned has executed this Written Consent as of the respective date and year first appearing above.

STOCKHOLDER:

James Dondero

[Signature Page to Written Consent of Sole Stockholder of Strand Advisors, Inc.]

**First Amendment to Bylaws of
Strand Advisors, Inc.**

Strand Advisors, Inc. (the “Company”), a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware, does hereby certify that the Company’s sole stockholder, acting by written consent without a meeting, resolved to amend the Company’s Bylaws (the “Bylaws”) as follows:

1. Article III, Section 2, of the Bylaws is hereby deleted in its entirety and replaced with the following:

Section 2. Number of Directors. The number of directors which shall constitute the whole Board shall be three (3).

2. The following shall be added as Section 6 to Article III of the Bylaws:

Section 6. Director Qualifications. Each director appointed to serve on the Board shall (A) (i) be an independent director, (ii) not be affiliated with the corporation’s stockholders, and (iii) not be an officer of the corporation; and (B) have been (x) nominated by the stockholders, (y) a retired bankruptcy judge and nominated jointly by the stockholders and any official committee of unsecured creditors in the chapter 11 bankruptcy of Highland Capital Management, L.P. (the “Committee”) currently pending in the Bankruptcy Court for the Northern District of Texas (the “Court”), Case No. 19-34054-sgj11; or (z) nominated by the Committee and reasonably acceptable to the stockholders.

3. The following shall be added as Section 7 to Article III of the Bylaws:

Section 7. Removal of Directors. Once appointed, the Independent Directors (i) cannot be removed without the Committee’s written consent or Order of the Court, and (ii) may be removed and replaced at the Committee’s direction upon approval of the Court (subject in all respects to the right of any party in interest, including the Debtor and the Independent Directors, to object to such removal and replacement).

Except as expressly amended hereby, the terms of the Company’s Bylaws shall remain in full force and effect.

[Signature Page Follows]

IN WITNESS WHEREOF, the Company has caused this amendment to be signed this [__] day of [__], 20__.

STRAND ADVISORS, INC.

By: Scott Ellington
Its: Secretary

INSERT STRAND ADVISORS, INC. LETTERHEAD

[_____]

[NAME]
[ADDRESS]
[ADDRESS]
[ADDRESS]

Re: Strand Advisors, Inc. – Director Agreement

Dear [REDACTED]:

On behalf of Strand Advisors, Inc. (the “Company”), I am pleased to have you join the Company’s Board of Directors. This letter sets forth the terms of the Director Agreement (the “Agreement”) that the Company is offering to you.

1. APPOINTMENT TO THE BOARD OF DIRECTORS.

a. Title, Term and Responsibilities.

i. Subject to terms set forth herein, the Company agrees to appoint you to serve as a Director on the Company’s Board of Directors (the “Board”), and you hereby accept such appointment the date you sign this Agreement (the “Effective Date”). You will serve as a Director of the Board from the Effective Date until you voluntarily resign, are removed from the Board, or are not re-elected (the “Term”). Your rights, duties and obligations as a Director shall be governed by the Certificate of Incorporation and Bylaws of the Company, each as amended from time to time (collectively, the “Governing Documents”), except that where the Governing Documents conflict with this Agreement, this Agreement shall control.

ii. You acknowledge and understand that the Company is the general partner of Highland Capital Management, L.P. (“HCMLP”) and that HCMLP is currently the debtor in possession in a chapter 11 bankruptcy proceeding pending in the Northern District of Texas (the “Bankruptcy”). Your rights, duties, and obligations may in certain instances require your involvement, either directly or indirectly, in the Bankruptcy and such rights, duties, and obligations may be impacted in whole or in part by the Bankruptcy.

b. Mandatory Board Meeting Attendance. As a Director, you agree to apply all reasonable efforts to attend each regular meeting of the Board and no fewer than fifty percent (50%) of these meetings of the Board in person, and no more than fifty percent (50%) of such meetings by telephone or teleconference. You also agree to devote sufficient time to matters that may arise at the Company from time to time that require your attention as a Director.

c. Independent Contractor. Under this Agreement, your relationship with the Company will be that of an independent contractor as you will not be an employee of the Company nor eligible to participate in regular employee benefit and compensation plans of the Company.

d. Information Provided by the Companies. The Company shall: (i) provide you with reasonable access to management and other representatives of the Company, except to the extent that any such access may impair any attorney client privilege to which the Company may be entitled; and (ii) furnish all data, material, and other information concerning the business, assets, liabilities, operations, cash flows,

properties, financial condition and prospects of the Company that you reasonably request in connection with the services to be provided to the Company. You will rely, without further independent verification, on the accuracy and completeness of all publicly available information and information that is furnished by or on behalf of the Company and otherwise reviewed by you in connection with the services performed for the Company. The Company acknowledges and agrees that you are not responsible for the accuracy or completeness of such information and shall not be responsible for any inaccuracies or omissions therein, provided that if you become aware of material inaccuracies or errors in any such information you shall promptly notify the Board of such errors, inaccuracies or concerns. You are under no obligation to update data submitted to you or to review any other information unless specifically requested by the Board to do so.

2. COMPENSATION AND BENEFITS.

a. Retainer. The Company will pay you a retainer for each month you serve on the Board (the “Retainer”) to be paid in monthly installments of \$[TBD]. The Company’s obligation to pay the Retainer will cease upon the termination of the Term.

b. Expense Reimbursement. The Company will reimburse you for all reasonable travel or other expenses, including expenses of counsel, incurred by you in connection with your services hereunder, in accordance with the Company’s expense reimbursement policy as in effect from time to time.

c. Invoices; Payment.

i. In order to receive the compensation and reimbursement set forth in this Section 2, you are required to send to the Company regular monthly invoices indicating your fees, costs, and expenses incurred. Payment will be due to you within 10 business days after receipt of each such invoice, subject to the Company’s receipt of appropriate documentation required by the Company’s expenses reimbursement policy.

ii. You further agree that the Company’s obligation to pay the compensation and reimbursement set forth in this Section 2 is conditioned in all respects on the entry of a final order in the court overseeing the Bankruptcy that authorizes and requires HCMLP to reimburse the Company for all such payments to you.

d. Indemnification; D&O Insurance. You will receive indemnification as a Director of the Company on the terms set forth in that certain Indemnification Agreement, dated December 5, 2019, a copy of which is attached hereto as **Appendix A** (the “Indemnification Agreement”). You will also be provided coverage under the Company’s directors’ and officers’ insurance policy as set forth in the Indemnification Agreement.

e. Tax Indemnification. You acknowledge that the Company will not be responsible for the payment of any federal or state taxes that might be assessed with respect to the Retainer and you agree to be responsible for all such taxes.

3. PROPRIETARY INFORMATION OBLIGATIONS.

a. Proprietary Information. You agree that during the Term and thereafter that you will take all steps reasonably necessary to hold all information of the Company, its affiliates, and related entities, which a reasonable person would believe to be confidential or proprietary information, in trust and confidence, and not disclose any such confidential or proprietary information to any third party without first obtaining the Company’s express written consent on a case-by-case basis.

b. Third Party Information. The Company has received and will in the future receive from third parties confidential or proprietary information (“Third Party Information”) subject to a duty on the Company’s part to maintain the confidentiality of such information and to use it only for certain limited purposes. You agree to hold such Third Party Information in confidence and not to disclose it to anyone (other than Company personnel who need to know such information in connection with their work for Company) or to use, except in connection with your services for Company under this Agreement, Third Party Information unless expressly authorized in writing by the Company.

c. Return of Company Property. Upon the end of the Term or upon the Company’s earlier request, you agree to deliver to the Company any and all notes, materials and documents, together with any copies thereof, which contain or disclose any confidential or proprietary information or Third Party Information.

4. OUTSIDE ACTIVITIES.

a. Investments and Interests. Except as permitted by Section 4(b), you agree not to participate in, directly or indirectly, any position or investment known by you to be materially adverse to the Company or any of its affiliates or related entities.

b. Activities. Except with the prior written consent of the Board, you will not during your tenure as a member of the Company’s Board undertake or engage in any other directorship, employment or business enterprise in direct competition with the Company or any of its affiliates or related entities, other than ones in which you are a passive investor or other activities in which you were a participant prior to your appointment to the Board as disclosed to the Company.

c. Other Agreements. You agree that you will not disclose to the Company or use on behalf of the Company any confidential information governed by any agreement between you and any third party except in accordance with such agreement.

5. TERMINATION OF DIRECTORSHIP.

a. Voluntary Resignation, Removal Pursuant to Bylaws and Stockholder Action. You may resign from the Board at any time with or without advance notice, with or without reason. Subject to any orders or agreements entered into in connection with the Bankruptcy, you may be removed from the Board at any time, for any reason, in any manner provided by the Governing Documents and applicable law or by an affirmative vote of a majority of the stockholders of the Company.

b. Continuation. The provisions of this Agreement that give the parties rights or obligations beyond the termination of this Agreement will survive and continue to bind the parties.

c. Payment of Fees; Reimbursement. Following termination of this Agreement, any undisputed fees and expenses due to you will be remitted promptly following receipt by the Company of any outstanding invoices.

6. GENERAL PROVISIONS.

a. Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law. If any provision of this Agreement is held to be invalid, illegal or unenforceable such provision will be reformed, construed and enforced to render it valid, legal, and enforceable consistent with the intent of the parties insofar as possible.

b. Entire Agreement. This Agreement constitutes the entire agreement between you and the Company with respect to your service as a Director and supersedes any prior agreement, promise, representation or statement written between you and the Company with regard to this subject matter. It is entered into without reliance on any promise, representation, statement or agreement other than those expressly contained or incorporated herein, and it cannot be modified or amended except in a writing signed by the party or parties affected by such modification or amendment.

c. Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by you and the Company and our respective successors, assigns, heirs, executors and administrators, except that you may not assign any of your rights or duties hereunder without the written consent of the Company.

d. Governing Law. This Agreement will be governed by the law of the State of Delaware as applied to contracts made and performed entirely within Delaware.

We are all delighted to be able to extend you this offer and look forward to working with you. To indicate your acceptance of the Company's offer, please sign and date this Agreement below.

Sincerely,

STRAND ADVISORS, INC.

By: Scott Ellington
Its: Secretary

[Signature Page Follows]

ACCEPTED AND AGREED:

[NAME]

Date: _____

INDEMNIFICATION AGREEMENT

This Indemnification Agreement (“**Agreement**”), dated as of [____], is by and between STRAND ADVISORS, INC., a Delaware corporation (the “**Company**”), and [____] (the “**Indemnitee**”).

WHEREAS, Indemnitee has agreed to serve as a member of the Company’s board of directors (the “**Board**”) effective as of the date hereof;

WHEREAS, the Board has determined that enhancing the ability of the Company to retain and attract as directors the most capable Persons is in the best interests of the Company and that the Company therefore should seek to assure such Persons that indemnification and insurance coverage is available; and

WHEREAS, in recognition of the need to provide Indemnitee with protection against personal liability, in order to procure Indemnitee’s service as a director of the Company, in order to enhance Indemnitee’s ability to serve the Company in an effective manner and in order to provide such protection pursuant to express contract rights (intended to be enforceable irrespective of, among other things, any amendment to the Company’s Bylaws (as may be amended further from time to time, the “**Bylaws**”), any change in the composition of the Board or any change in control, business combination or similar transaction relating to the Company), the Company wishes to provide in this Agreement for the indemnification of, and the advancement of Expenses (as defined in Section 1(g) below) to, Indemnitee as set forth in this Agreement and for the coverage of Indemnitee under the Company’s directors’ and officers’ liability or similar insurance policies (“**D&O Insurance**”).

NOW, THEREFORE, in consideration of the foregoing and the Indemnitee’s agreement to provide services to the Company, the parties agree as follows:

1. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

(a) “**Change in Control**” means the occurrence of any of the following: (i) the direct or indirect sale, lease, transfer, conveyance or other disposition, in one or a series of related transactions (including any merger or consolidation or whether by operation of law or otherwise), of all or substantially all of the properties or assets of the Company and its subsidiaries, to a third party purchaser (or group of affiliated third party purchasers) or (ii) the consummation of any transaction (including any merger or consolidation or whether by operation of law or otherwise), the result of which is that a third party purchaser (or group of affiliated third party purchasers) becomes the beneficial owner, directly or indirectly, of more than fifty percent (50%) of the then outstanding Shares or of the surviving entity of any such merger or consolidation.

(b) “**Claim**” means:

(i) any threatened, pending or completed action, suit, claim, demand, arbitration, inquiry, hearing, proceeding or alternative dispute resolution mechanism, or

any actual, threatened or completed proceeding, including any and all appeals, in each case, whether brought by or in the right of the Company or otherwise, whether civil, criminal, administrative, arbitral, investigative or other, whether formal or informal, and whether made pursuant to federal, state, local, foreign or other law, and whether or not commenced prior to the date of this Agreement, in which Indemnitee was, is or will be involved as a party or otherwise, by reason of or relating to either (a) any action or alleged action taken by Indemnitee (or failure or alleged failure to act) or of any action or alleged action (or failure or alleged failure to act) on Indemnitee's part, while acting in his or her Corporate Status or (b) the fact that Indemnitee is or was serving at the request of the Company or any subsidiary of the Company as director, officer, employee, partner, member, manager, trustee, fiduciary or agent of another Enterprise, in each case, whether or not serving in such capacity at the time any Loss or Expense is paid or incurred for which indemnification or advancement of Expenses can be provided under this Agreement, except one initiated by Indemnitee to enforce his or her rights under this Agreement; or

(ii) any inquiry, hearing or investigation that the Indemnitee determines might lead to the institution of any such action, suit, proceeding or alternative dispute resolution mechanism.

(c) **"Controlled Entity"** means any corporation, limited liability company, partnership, joint venture, trust or other Enterprise, whether or not for profit, that is, directly or indirectly, controlled by the Company. For purposes of this definition, the term "control" means the possession, directly or indirectly, of the power to direct, or cause the direction of, the management or policies of an Enterprise, whether through the ownership of voting securities, through other voting rights, by contract or otherwise.

(d) **"Corporate Status"** means the status of a Person who is or was a director, officer, employee, partner, member, manager, trustee, fiduciary or agent of the Company or of any other Enterprise which such Person is or was serving at the request of the Company or any subsidiary of the Company. In addition to any service at the actual request of the Company, Indemnitee will be deemed, for purposes of this Agreement, to be serving or to have served at the request of the Company or any subsidiary of the Company as a director, officer, employee, partner, member, manager, trustee, fiduciary or agent of another Enterprise if Indemnitee is or was serving as a director, officer, employee, partner, member, manager, fiduciary, trustee or agent of such Enterprise and (i) such Enterprise is or at the time of such service was a Controlled Entity, (ii) such Enterprise is or at the time of such service was an employee benefit plan (or related trust) sponsored or maintained by the Company or a Controlled Entity or (iii) the Company or a Controlled Entity, directly or indirectly, caused Indemnitee to be nominated, elected, appointed, designated, employed, engaged or selected to serve in such capacity.

(e) **"Disinterested Director"** means a director of the Company who is not and was not a party to the Claim in respect of which indemnification is sought by Indemnitee. Under no circumstances will James Dondero be considered a Disinterested Director.

(f) **"Enterprise"** means the Company or any subsidiary of the Company or any other corporation, partnership, limited liability company, joint venture, employee benefit

plan, trust or other entity or other enterprise of which Indemnatee is or was serving at the request of the Company or any subsidiary of the Company in a Corporate Status.

(g) **“Expenses”** means any and all expenses, fees, including attorneys’, witnesses’ and experts’ fees, disbursements and retainers, court costs, transcript costs, travel expenses, duplicating, printing and binding costs, telephone charges, postage, fax transmission charges, secretarial services, delivery services fees, and all other fees, costs, disbursements and expenses paid or incurred in connection with investigating, defending, prosecuting, being a witness in or participating in (including on appeal), or preparing to defend, prosecute, be a witness or participate in, any Claim. Expenses also shall include (i) Expenses paid or incurred in connection with any appeal resulting from any Claim, including, without limitation, the premium, security for, and other costs relating to any cost bond, supersedeas bond, or other appeal bond or its equivalent, and (ii) for purposes of Section 4 only, Expenses incurred by Indemnatee in connection with the interpretation, enforcement or defense of Indemnatee’s rights under this Agreement, by litigation or otherwise. Expenses, however, shall not include amounts paid in settlement by Indemnatee or the amount of judgments or fines against Indemnatee.

(h) **“Exchange Act”** means the Securities Exchange Act of 1934, as amended, or any successor statute thereto, and the rules and regulations of the United States Securities and Exchange Commission promulgated thereunder.

(i) **“Expense Advance”** means any payment of Expenses advanced to Indemnatee by the Company pursuant to Section 4 or Section 5 hereof.

(j) **“Indemnifiable Event”** means any event or occurrence, whether occurring before, on or after the date of this Agreement, related to the fact that Indemnatee is or was a manager, director, officer, employee or agent of the Company or any subsidiary of the Company, or is or was serving at the request of the Company or any subsidiary of the Company as a manager, director, officer, employee, member, manager, trustee or agent of any other Enterprise or by reason of an action or inaction by Indemnatee in any such capacity (whether or not serving in such capacity at the time any Loss is incurred for which indemnification can be provided under this Agreement).

(k) **“Independent Counsel”** means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently performs, nor in the past three (3) years has performed, services for any of: (i) James Dondero, (ii) the Company or Indemnatee (other than in connection with matters concerning Indemnatee under this Agreement or of other indemnitees under similar agreements), or (iii) any other party to the Claim giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term “Independent Counsel” shall not include any Person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnatee in an action to determine Indemnatee’s rights under this Agreement.

(l) **“Losses”** means any and all Expenses, damages, losses, liabilities, judgments, fines (including excise taxes and penalties assessed with respect to employee

benefit plans and ERISA excise taxes), penalties (whether civil, criminal or other), amounts paid or payable in settlement, including any interest, assessments, any federal, state, local or foreign taxes imposed as a result of the actual or deemed receipt of any payments under this Agreement and all other charges paid or payable in connection with investigating, defending, being a witness in or participating in (including on appeal), or preparing to defend, be a witness or participate in, any Claim.

(m) **“Person”** means any individual, corporation, firm, partnership, joint venture, limited liability company, estate, trust, business association, organization, governmental entity or other entity and includes the meaning set forth in Sections 13(d) and 14(d) of the Exchange Act.

(n) **“Shares”** means an ownership interest of a member in the Company, including each of the common shares of the Company or any other class or series of Shares designated by the Board.

(o) References to **“serving at the request of the Company”** include any service as a director, manager, officer, employee, representative or agent of the Company which imposes duties on, or involves services by, such director, manager, officer, employee or agent, including but not limited to any employee benefit plan, its participants or beneficiaries; and a Person who acted in good faith and in a manner he or she reasonably believed to be in and not opposed to the best interests of the Company in Indemnitee’s capacity as a director, manager, officer, employee, representative or agent of the Company, including but not limited to acting in the best interest of participants and beneficiaries of an employee benefit plan will be deemed to have acted in a manner **“not opposed to the best interests of the Company”** as referred to under applicable law or in this Agreement.

2. Indemnification.

(a) Subject to Section 9 and Section 10 of this Agreement, the Company shall indemnify and hold Indemnitee harmless, to the fullest extent permitted by the laws of the State of Delaware in effect on the date hereof, or as such laws may from time to time hereafter be amended to increase the scope of such permitted indemnification, against any and all Losses and Expenses if Indemnitee was or is or becomes a party to or participant in, or is threatened to be made a party to or participant in, any Claim by reason of or arising in part out of an Indemnifiable Event, including, without limitation, Claims brought by or in the right of the Company, Claims brought by third parties, and Claims in which the Indemnitee is solely a witness.

(b) For the avoidance of doubt, the indemnification rights and obligations contained herein shall also extend to any Claim in which the Indemnitee was or is a party to, was or is threatened to be made a party to or was or is otherwise involved in any capacity in by reason of Indemnitee’s Corporate Status as a fiduciary capacity with respect to an employee benefit plan. In connection therewith, if the Indemnitee has acted in good faith and in a manner which appeared to be consistent with the best interests of the participants and beneficiaries of an employee benefit plan and not opposed thereto, the Indemnitee shall be deemed to have acted in a manner not opposed to the best interests of the Company.

3. Contribution.

(a) Whether or not the indemnification provided in Section 2 is available, if, for any reason, Indemnatee shall elect or be required to pay all or any portion of any judgment or settlement in any Claim in which the Company is jointly liable with Indemnatee (or would be if joined in such Claim), the Company shall contribute to the amount of Losses paid or payable by Indemnatee in proportion to the relative benefits received by the Company and all officers, directors, managers or employees of the Company, other than Indemnatee, who are jointly liable with Indemnatee (or would be if joined in such Claim), on the one hand, and Indemnatee, on the other hand, from the transaction or events from which such Claim arose; provided, however, that the proportion determined on the basis of relative benefit may, to the extent necessary to conform to law, be further adjusted by reference to the relative fault of the Company and all officers, directors, managers or employees of the Company other than Indemnatee who are jointly liable with Indemnatee (or would be if joined in such Claim), on the one hand, and Indemnatee, on the other hand, in connection with the transaction or events that resulted in such Losses, as well as any other equitable considerations which applicable law may require to be considered. The relative fault of the Company and all officers, directors, managers or employees of the Company, other than Indemnatee, who are jointly liable with Indemnatee (or would be if joined in such Claim), on the one hand, and Indemnatee, on the other hand, shall be determined by reference to, among other things, the degree to which their actions were motivated by intent to gain personal profit or advantage, the degree to which their liability is primary or secondary and the degree to which their conduct is active or passive.

(b) The Company hereby agrees to fully indemnify and hold Indemnatee harmless from any claims of contribution which may be brought by officers, directors, managers or employees of the Company, other than Indemnatee, who may be jointly liable with Indemnatee.

(c) To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnatee for any reason whatsoever, the Company, in lieu of indemnifying Indemnatee, shall contribute to the amount incurred by Indemnatee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement and/or for Expenses, in connection with any Claim relating to an Indemnifiable Event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Claim in order to reflect (i) the relative benefits received by the Company and Indemnatee as a result of the event(s) and/or transaction(s) giving cause to such Claim; and/or (ii) the relative fault of the Company (and its directors, managers, officers, employees and agents) and Indemnatee in connection with such event(s) and/or transaction(s).

4. Advancement of Expenses. The Company shall, if requested by Indemnatee, advance, to the fullest extent permitted by law, to Indemnatee (an “**Expense Advance**”) any and all Expenses actually and reasonably paid or incurred (even if unpaid) by Indemnatee in connection with any Claim arising out of an Indemnifiable Event (whether prior to or after its final disposition). Indemnatee’s right to such advancement is not subject to the satisfaction of any standard of conduct. Without limiting the generality or effect of

the foregoing, within thirty (30) business days after any request by Indemnitee, the Company shall, in accordance with such request, (a) pay such Expenses on behalf of Indemnitee, (b) advance to Indemnitee funds in an amount sufficient to pay such Expenses, or (c) reimburse Indemnitee for such Expenses. In connection with any request for Expense Advances, Indemnitee shall not be required to provide any documentation or information to the extent that the provision thereof would undermine or otherwise jeopardize attorney-client privilege. Execution and delivery to the Company of this Agreement by Indemnitee constitutes an undertaking by the Indemnitee to repay any amounts paid, advanced or reimbursed by the Company pursuant to this Section 4, the final sentence of Section 9(b), or Section 11(b) in respect of Expenses relating to, arising out of or resulting from any Claim in respect of which it shall be determined, pursuant to Section 9, following the final disposition of such Claim, that Indemnitee is not entitled to indemnification hereunder. No other form of undertaking shall be required other than the execution of this Agreement. Each Expense Advance will be unsecured and interest free and will be made by the Company without regard to Indemnitee's ability to repay the Expense Advance.

5. Indemnification for Expenses in Enforcing Rights. To the fullest extent allowable under applicable law, the Company shall also indemnify against, and, if requested by Indemnitee, shall advance to Indemnitee subject to and in accordance with Section 4, any Expenses actually and reasonably paid or incurred (even if unpaid) by Indemnitee in connection with any action or proceeding by Indemnitee for (a) indemnification or reimbursement or advance payment of Expenses by the Company under any provision of this Agreement, or under any other agreement or provision of the Bylaws now or hereafter in effect relating to Claims relating to Indemnifiable Events, and/or (b) recovery under any D&O Insurance maintained by the Company, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification or insurance recovery, as the case may be. Indemnitee shall be required to reimburse the Company in the event that a final judicial determination is made that such action brought by Indemnitee was frivolous or not made in good faith.

6. Partial Indemnity. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for a portion of any Losses in respect of a Claim related to an Indemnifiable Event but not for the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion thereof to which Indemnitee is entitled.

7. Notification and Defense of Claims.

(a) Notification of Claims. Indemnitee shall notify the Company in writing as soon as reasonably practicable of any Claim which could relate to an Indemnifiable Event or for which Indemnitee could seek Expense Advances, including a brief description (based upon information then available to Indemnitee) of the nature of, and the facts underlying, such Claim, to the extent then known. The failure by Indemnitee to timely notify the Company hereunder shall not relieve the Company from any liability hereunder except to the extent the Company's ability to participate in the defense of such claim was materially and adversely affected by such failure. If at the time of the receipt of such notice, the Company has D&O Insurance or any other insurance in effect under which coverage for Claims related to Indemnifiable Events is potentially available, the Company shall give

prompt written notice to the applicable insurers in accordance with the procedures, provisions, and terms set forth in the applicable policies. The Company shall provide to Indemnatee a copy of such notice delivered to the applicable insurers, and copies of all subsequent correspondence between the Company and such insurers regarding the Claim, in each case substantially concurrently with the delivery or receipt thereof by the Company.

(b) Defense of Claims. The Company shall be entitled to participate in the defense of any Claim relating to an Indemnifiable Event at its own expense and, except as otherwise provided below, to the extent the Company so wishes, it may assume the defense thereof with counsel reasonably satisfactory to Indemnatee. After notice from the Company to Indemnatee of its election to assume the defense of any such Claim, the Company shall not be liable to Indemnatee under this Agreement or otherwise for any Expenses subsequently directly incurred by Indemnatee in connection with Indemnatee's defense of such Claim other than reasonable costs of investigation or as otherwise provided below. Indemnatee shall have the right to employ its own legal counsel in such Claim, but all Expenses related to such counsel incurred after notice from the Company of its assumption of the defense shall be at Indemnatee's own expense; provided, however, that if (i) Indemnatee's employment of its own legal counsel has been authorized by the Company, (ii) Indemnatee has reasonably determined that there may be a conflict of interest between Indemnatee and the Company in the defense of such Claim, (iii) after a Change in Control, Indemnatee's employment of its own counsel has been approved by the Independent Counsel or (iv) the Company shall not in fact have employed counsel to assume the defense of such Claim, then Indemnatee shall be entitled to retain its own separate counsel (but not more than one law firm plus, if applicable, local counsel in respect of any such Claim) and all Expenses related to such separate counsel shall be borne by the Company.

8. Procedure upon Application for Indemnification. In order to obtain indemnification pursuant to this Agreement, Indemnatee shall submit to the Company a written request therefor, including in such request such documentation and information as is reasonably available to Indemnatee and is reasonably necessary to determine whether and to what extent Indemnatee is entitled to indemnification following the final disposition of the Claim, provided that documentation and information need not be so provided to the extent that the provision thereof would undermine or otherwise jeopardize attorney-client privilege. Indemnification shall be made insofar as the Company determines Indemnatee is entitled to indemnification in accordance with Section 9 below.

9. Determination of Right to Indemnification.

(a) Mandatory Indemnification; Indemnification as a Witness.

(i) To the extent that Indemnatee shall have been successful on the merits or otherwise in defense of any Claim relating to an Indemnifiable Event or any portion thereof or in defense of any issue or matter therein, including without limitation dismissal without prejudice, Indemnatee shall be indemnified against all Losses relating to such Claim in accordance with Section 2, and no Standard of Conduct Determination (as defined in Section 9(b)) shall be required.

(ii) To the extent that Indemnitee's involvement in a Claim relating to an Indemnifiable Event is to prepare to serve and serve as a witness, and not as a party, the Indemnitee shall be indemnified against all Losses incurred in connection therewith to the fullest extent allowable by law and no Standard of Conduct Determination (as defined in Section 9(b)) shall be required.

(b) Standard of Conduct. To the extent that the provisions of Section 9(a) are inapplicable to a Claim related to an Indemnifiable Event that shall have been finally disposed of, any determination of whether Indemnitee has satisfied any applicable standard of conduct under Delaware law that is a legally required condition to indemnification of Indemnitee hereunder against Losses relating to such Claim and any determination that Expense Advances must be repaid to the Company (a "**Standard of Conduct Determination**") shall be made as follows:

(i) if no Change in Control has occurred, (A) by a majority vote of the Disinterested Directors, even if less than a quorum of the Board, (B) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum or (C) if there are no such Disinterested Directors, by Independent Counsel in a written opinion addressed to the Board, a copy of which shall be delivered to Indemnitee; and

(ii) if a Change in Control shall have occurred, (A) if the Indemnitee so requests in writing, by a majority vote of the Disinterested Directors, even if less than a quorum of the Board or (B) otherwise, by Independent Counsel in a written opinion addressed to the Board, a copy of which shall be delivered to Indemnitee.

Subject to Section 4, the Company shall indemnify and hold Indemnitee harmless against and, if requested by Indemnitee, shall reimburse Indemnitee for, or advance to Indemnitee, within thirty (30) business days of such request, any and all Expenses incurred by Indemnitee in cooperating with the Person or Persons making such Standard of Conduct Determination.

(c) Making the Standard of Conduct Determination. The Company shall use its reasonable best efforts to cause any Standard of Conduct Determination required under Section 9(b) to be made as promptly as practicable. If the Person or Persons designated to make the Standard of Conduct Determination under Section 9(b) shall not have made a determination within ninety (90) days after the later of (A) receipt by the Company of a written request from Indemnitee for indemnification pursuant to Section 8 (the date of such receipt being the "**Notification Date**") and (B) the selection of an Independent Counsel, if such determination is to be made by Independent Counsel, then Indemnitee shall be deemed to have satisfied the applicable standard of conduct; provided that such 90-day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the Person or Persons making such determination in good faith requires such additional time to obtain or evaluate information relating thereto. Notwithstanding anything in this Agreement to the contrary, no determination as to entitlement of Indemnitee to indemnification under this Agreement shall be required to be made prior to the final disposition of any Claim.

(d) Payment of Indemnification. If, in regard to any Losses:

(i) Indemnatee shall be entitled to indemnification pursuant to Section 9(a);

(ii) no Standard of Conduct Determination is legally required as a condition to indemnification of Indemnatee hereunder; or

(iii) Indemnatee has been determined or deemed pursuant to Section 9(b) or Section 9(c) to have satisfied the Standard of Conduct Determination,

then the Company shall pay to Indemnatee, within thirty (30) business days after the later of (A) the Notification Date or (B) the earliest date on which the applicable criterion specified in clause (i), (ii) or (iii) is satisfied, an amount equal to such Losses.

(e) Selection of Independent Counsel for Standard of Conduct Determination. If a Standard of Conduct Determination is to be made by Independent Counsel pursuant to Section 9(b)(i), the Independent Counsel shall be selected by the Board and the Company shall give written notice to Indemnatee advising him of the identity of the Independent Counsel so selected. If a Standard of Conduct Determination is to be made by Independent Counsel pursuant to Section 9(b)(ii), the Independent Counsel shall be selected by Indemnatee, and Indemnatee shall give written notice to the Company advising it of the identity of the Independent Counsel so selected. In either case, Indemnatee or the Company, as applicable, may, within thirty (3) business days after receiving written notice of selection from the other, deliver to the other a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not satisfy the criteria set forth in the definition of “Independent Counsel” in Section 1(k), and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the Person or firm so selected shall act as Independent Counsel. If such written objection is properly and timely made and substantiated, (i) the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit; and (ii) the non-objecting party may, at its option, select an alternative Independent Counsel and give written notice to the other party advising such other party of the identity of the alternative Independent Counsel so selected, in which case the provisions of the two immediately preceding sentences, the introductory clause of this sentence and numbered clause (i) of this sentence shall apply to such subsequent selection and notice. If applicable, the provisions of clause (ii) of the immediately preceding sentence shall apply to successive alternative selections. If no Independent Counsel that is permitted under the foregoing provisions of this Section 9(e) to make the Standard of Conduct Determination shall have been selected within twenty (20) days after the Company gives its initial notice pursuant to the first sentence of this Section 9(e) or Indemnatee gives its initial notice pursuant to the second sentence of this Section 9(e), as the case may be, either the Company or Indemnatee may petition the Court of Chancery of the State of Delaware (“**Delaware Court**”) to resolve any objection which shall have been made by the Company or Indemnatee to the other’s selection of Independent Counsel and/or to appoint as Independent Counsel a Person to be selected by the Court or such other Person as the Court

shall designate, and the Person or firm with respect to whom all objections are so resolved or the Person or firm so appointed will act as Independent Counsel. In all events, the Company shall pay all of the reasonable fees and expenses of the Independent Counsel incurred in connection with the Independent Counsel's determination pursuant to Section 9(b).

(f) Presumptions and Defenses.

(i) Indemnitee's Entitlement to Indemnification. In making any Standard of Conduct Determination, the Person or Persons making such determination shall presume that Indemnitee has satisfied the applicable standard of conduct and is entitled to indemnification, and the Company shall have the burden of proof to overcome that presumption and establish that Indemnitee is not so entitled. Any Standard of Conduct Determination that is adverse to Indemnitee may be challenged by the Indemnitee in the Delaware Court. No determination by the Company (including by its Board or any Independent Counsel) that Indemnitee has not satisfied any applicable standard of conduct may be used as a defense to enforcement by Indemnitee of Indemnitee's rights of indemnification or reimbursement or advance of payment of Expenses by the Company hereunder or create a presumption that Indemnitee has not met any applicable standard of conduct.

(ii) Reliance as a Safe Harbor. For purposes of this Agreement, and without creating any presumption as to a lack of good faith if the following circumstances do not exist, Indemnitee shall be deemed to have acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company if Indemnitee's actions or omissions to act are taken in good faith reliance upon the records of the Company, including its financial statements, or upon information, opinions, reports or statements furnished to Indemnitee by the officers or employees of the Company or any of its subsidiaries in the course of their duties, or by committees of the Board or by any other Person (including legal counsel, accountants and financial advisors) as to matters Indemnitee reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company. In addition, the knowledge and/or actions, or failures to act, of any director, manager, officer, agent or employee of the Company (other than Indemnitee) shall not be imputed to Indemnitee for purposes of determining the right to indemnity hereunder.

(iii) Defense to Indemnification and Burden of Proof. It shall be a defense to any action brought by Indemnitee against the Company to enforce this Agreement (other than an action brought to enforce a claim for Losses incurred in defending against a Claim related to an Indemnifiable Event in advance of its final disposition) that it is not permissible under applicable law for the Company to indemnify Indemnitee for the amount claimed. In connection with any such action or any related Standard of Conduct Determination, the burden of proving such a defense or that the Indemnitee did not satisfy the applicable standard of conduct shall be on the Company.

10. Exclusions from Indemnification. Notwithstanding anything in this Agreement to the contrary, the Company shall not be obligated to:

(a) indemnify or advance funds to Indemnitee for Losses with respect to proceedings initiated by Indemnitee, including any proceedings against the Company or its managers, officers, employees or other indemnitees and not by way of defense, except:

(i) proceedings referenced in Section 4 above (unless a court of competent jurisdiction determines that each of the material assertions made by Indemnitee in such proceeding was not made in good faith or was frivolous); or

(ii) where the Company has joined in or the Board has consented to the initiation of such proceedings.

(b) indemnify Indemnitee if a final decision by a court of competent jurisdiction determines that such indemnification is prohibited by applicable law.

(c) indemnify Indemnitee for the disgorgement of profits arising from the purchase or sale by Indemnitee of securities of the Company in violation of Section 16(b) of the Exchange Act, or any similar successor statute.

11. Remedies of Indemnitee.

(a) In the event that (i) a determination is made pursuant to Section 9 that Indemnitee is not entitled to indemnification under this Agreement, (ii) an Expense Advance is not timely made pursuant to Section 4, (iii) no determination of entitlement to indemnification is made pursuant to Section 9 within 90 days after receipt by the Company of the request for indemnification, or (iv) payment of indemnification is not made pursuant Section 9(d), Indemnitee shall be entitled to an adjudication in a Delaware Court, or in any other court of competent jurisdiction, of Indemnitee's entitlement to such indemnification. Indemnitee shall commence such proceeding seeking an adjudication within 180 days following the date on which Indemnitee first has the right to commence such proceeding pursuant to this Section 11(a). The Company shall not oppose Indemnitee's right to seek any such adjudication.

(b) In the event that Indemnitee, pursuant to this Section 11, seeks a judicial adjudication or arbitration of his or her rights under, or to recover damages for breach of, this Agreement, any other agreement for indemnification, payment of Expenses in advance or contribution hereunder or to recover under any director, manager, and officer liability insurance policies or any other insurance policies maintained by the Company, the Company will, to the fullest extent permitted by law and subject to Section 4, indemnify and hold harmless Indemnitee against any and all Expenses which are paid or incurred by Indemnitee in connection with such judicial adjudication or arbitration, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, payment of Expenses in advance or contribution or insurance recovery. In addition, if requested by Indemnitee, subject to Section 4 the Company will (within thirty (30) days after receipt by the Company of the written request therefor), pay as an Expense Advance such Expenses, to the fullest extent permitted by law.

(c) In the event that a determination shall have been made pursuant to Section 9 that Indemnitee is not entitled to indemnification, any judicial proceeding commenced

pursuant to this Section 11 shall be conducted in all respects as a de novo trial on the merits, and Indemnatee shall not be prejudiced by reason of the adverse determination under Section 9.

(d) If a determination shall have been made pursuant to Section 9 that Indemnatee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding commenced pursuant to this Section 11, absent (i) a misstatement by Indemnatee of a material fact, or an omission of a material fact necessary to make Indemnatee's misstatement not materially misleading in connection with the application for indemnification, or (ii) a prohibition of such indemnification under applicable law.

12. Settlement of Claims. The Company shall not be liable to Indemnatee under this Agreement for any amounts paid in settlement of any threatened or pending Claim related to an Indemnifiable Event effected without the Company's prior written consent, which shall not be unreasonably withheld; provided, however, that if a Change in Control has occurred, the Company shall be liable for indemnification of the Indemnatee for amounts paid in settlement if an Independent Counsel (which, for purposes of this Section 12, shall be selected by the Company with the prior consent of the Indemnatee, such consent not to be unreasonably withheld or delayed) has approved the settlement. The Company shall not settle any Claim related to an Indemnifiable Event in any manner that would impose any Losses on the Indemnatee without the Indemnatee's prior written consent.

13. Duration. All agreements and obligations of the Company contained herein shall continue during the period that Indemnatee is a manager of the Company (or is serving at the request of the Company as a director, manager, officer, employee, member, trustee or agent of another Enterprise) and shall continue thereafter (i) so long as Indemnatee may be subject to any possible Claim relating to an Indemnifiable Event (including any rights of appeal thereto) and (ii) throughout the pendency of any proceeding (including any rights of appeal thereto) commenced by Indemnatee to enforce or interpret his or her rights under this Agreement, even if, in either case, he or she may have ceased to serve in such capacity at the time of any such Claim or proceeding.

14. Other Indemnitors. The Company hereby acknowledges that Indemnatee may have certain rights to indemnification, advancement of Expenses and/or insurance provided by certain private equity funds, hedge funds or other investment vehicles or management companies and/or certain of their affiliates and by personal policies (collectively, the "**Other Indemnitors**"). The Company hereby agrees (i) that it is the indemnitor of first resort (i.e., its obligations to Indemnatee are primary and any obligation of the Other Indemnitors to advance Expenses or to provide indemnification for the same Expenses or liabilities incurred by Indemnatee are secondary), (ii) that it shall be required to advance the full amount of Expenses incurred by Indemnatee and shall be liable for the full amount of all Expenses, judgments, penalties, fines and amounts paid in settlement to the extent legally permitted and as required by the terms of this Agreement and the Bylaws (or any other agreement between the Company and Indemnatee), without regard to any rights Indemnatee may have against the Other Indemnitors, and, (iii) that it irrevocably waives, relinquishes and releases the Other Indemnitors from any and all claims against the Other

Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Company further agrees that no advancement or payment by the Other Indemnitors on behalf of Indemnitee with respect to any claim for which Indemnitee has sought indemnification from the Company shall affect the foregoing and the Other Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of Indemnitee against the Company. The Company and Indemnitee agree that the Other Indemnitors are express third party beneficiaries of the terms of this Section 14.

15. Non-Exclusivity. The rights of Indemnitee hereunder will be in addition to any other rights Indemnitee may have under the Bylaws, the General Corporation Law of the State of Delaware (as may be amended from time to time, the “**DGCL**”), any other contract, in law or in equity, and under the laws of any state, territory, or jurisdiction, or otherwise (collectively, “**Other Indemnity Provisions**”). The Company will not adopt any amendment to its Bylaws the effect of which would be to deny, diminish, encumber or limit Indemnitee’s right to indemnification under this Agreement or any Other Indemnity Provision.

16. Liability Insurance. For the duration of Indemnitee’s service as a director of the Company, and thereafter for so long as Indemnitee shall be subject to any pending Claim relating to an Indemnifiable Event, the Company shall use best efforts to continue to maintain in effect policies of D&O Insurance providing coverage that is at least substantially comparable in scope and amount to that provided by similarly situated companies. In all policies of D&O Insurance maintained by the Company, Indemnitee shall be named as an insured in such a manner as to provide Indemnitee the same rights and benefits as are provided to the most favorably insured of the Company’s directors. Upon request, the Company will provide to Indemnitee copies of all D&O Insurance applications, binders, policies, declarations, endorsements and other related materials.

17. No Duplication of Payments. The Company shall not be liable under this Agreement to make any payment to Indemnitee in respect of any Losses to the extent Indemnitee has otherwise received payment under any insurance policy, any Other Indemnity Provisions or otherwise of the amounts otherwise indemnifiable by the Company hereunder.

18. Subrogation. In the event of payment to Indemnitee under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee. Indemnitee shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Company effectively to bring suit to enforce such rights.

19. Indemnitee Consent. The Company will not, without the prior written consent of Indemnitee, consent to the entry of any judgment against Indemnitee or enter into any settlement or compromise which (a) includes an admission of fault of Indemnitee, any non-monetary remedy imposed on Indemnitee or a Loss for which Indemnitee is not wholly indemnified hereunder or (b) with respect to any Claim with respect to which Indemnitee may be or is made a party or a participant or may be or is otherwise entitled to seek

indemnification hereunder, does not include, as an unconditional term thereof, the full release of Indemnatee from all liability in respect of such Claim, which release will be in form and substance reasonably satisfactory to Indemnatee. Neither the Company nor Indemnatee will unreasonably withhold its consent to any proposed settlement; provided, however, Indemnatee may withhold consent to any settlement that does not provide a full and unconditional release of Indemnatee from all liability in respect of such Claim.

20. Amendments. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be binding unless in the form of a writing signed by the party against whom enforcement of the waiver is sought, and no such waiver shall operate as a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. Except as specifically provided herein, no failure to exercise or any delay in exercising any right or remedy hereunder shall constitute a waiver thereof.

21. Binding Effect. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business and/or assets of the Company), assigns, spouses, heirs and personal and legal representatives. The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all or a substantial part of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnatee, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

22. Severability. Each provision of this Agreement shall be considered severable and if for any reason any provision which is not essential to the effectuation of the basic purposes of this Agreement is determined by a court of competent jurisdiction to be invalid, unenforceable or contrary to the DGCL or existing or future applicable law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those provisions of this Agreement which are valid, enforceable and legal. In that case, this Agreement shall be construed so as to limit any term or provision so as to make it valid, enforceable and legal within the requirements of any applicable law, and in the event such term or provision cannot be so limited, this Agreement shall be construed to omit such invalid, unenforceable or illegal provisions.

23. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand, against receipt, or mailed, by postage prepaid, certified or registered mail:

- (a) if to Indemnatee, to the address set forth on the signature page hereto.
- (b) if to the Company, to:

Strand Advisors, Inc.
Attention: Isaac Leventon

Address: 300 Crescent Court, Suite 700
Dallas, Texas 75201
Email: ileventon@highlandcapital.com

Notice of change of address shall be effective only when given in accordance with this Section 23. All notices complying with this Section 23 shall be deemed to have been received on the date of hand delivery or on the third business day after mailing.

24. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF DELAWARE (OTHER THAN ITS RULES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY).

25. Jurisdiction. The parties hereby agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby, whether in contract, tort or otherwise, shall be brought in the United States District Court for the District of Delaware or in the Court of Chancery of the State of Delaware (or, if such court lacks subject matter jurisdiction, in the Superior Court of the State of Delaware), so long as one of such courts shall have subject-matter jurisdiction over such suit, action or proceeding, and that any case of action arising out of this Agreement shall be deemed to have arisen from a transaction of business in the State of Delaware. Each of the parties hereby irrevocably consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum.

26. Enforcement.

(a) Without limiting Section 15, this Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof.

(b) The Company shall not seek from a court, or agree to, a "bar order" which would have the effect of prohibiting or limiting the Indemnitee's rights to receive advancement of Expenses under this Agreement other than in accordance with this Agreement.

27. Headings and Captions. All headings and captions contained in this Agreement and the table of contents hereto are inserted for convenience only and shall not be deemed a part of this Agreement.

28. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one and the

same agreement. Facsimile counterpart signatures to this Agreement shall be binding and enforceable.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

STRAND ADVISORS, INC.

By: _____
Name:
Title:

[SIGNATURE PAGE – INDEMNIFICATION AGREEMENT]

INDEMNITEE:

Name: [_____]

Address: _____

Email:

[SIGNATURE PAGE – INDEMNIFICATION AGREEMENT]

December __, 2019

Attn: Independent Directors
Highland Capital Management, LP
300 Crescent Court, Ste. 700
Dallas, TX 75201

Re: Development Specialists, Inc. (“DSI”)
Retention and Letter of Engagement

Dear Members of the Board:

Please accept this letter as our firm’s formal written agreement (the “Agreement”) to provide restructuring support services to Highland Capital Management, L.P. (the “Company”). This Agreement replaces and supersedes in all respects the letter agreement between DSI and the Company, dated October 7, 2019, as amended and revised by the letter agreement dated October 29, 2019. However, all fees and expenses incurred by DSI prior to the date hereof in accordance with such prior letter agreements will be paid by the Company, subject to allowance of such fees and expenses by the U.S. Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”). The Agreement will become effective upon execution by duly authorized representatives of the respective parties and approval of the Bankruptcy Court.

Section 1 – Scope of Work

DSI will provide the following services (the “Services”) to the Company:

1. Bradley D. Sharp will act as the Company’s Chief Restructuring Officer (“CRO”) with other DSI personnel to assist Mr. Sharp in carrying out those duties and responsibilities.
2. Subject to the terms of this Agreement, as CRO, Mr. Sharp will assume control of the Company’s restructuring and direct the Company with respect to its bankruptcy filed on October 16, 2019 (the “Chapter 11 Case”), which Chapter 11 Case has now been transferred to the Bankruptcy Court.
3. Subject to the terms of this Agreement, Mr. Sharp will report to the Independent Directors and, if appointed, the Chief Executive Officer of the Company (“CEO”) and will comply with the Company’s corporate governance requirements.
4. As directed by the Independent Directors and/or CEO, the CRO will be responsible for the implementation and prosecution of the Chapter 11 Case, including negotiations with creditors, reconciliation of claims, and confirmation of a plan or plans of reorganization.
5. Provide other personnel of DSI (“Additional Personnel”) to provide restructuring support services as requested or required to the Company, which may include but are not limited to:

Highland Capital Management, LP
December ___, 2019
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- a. assisting the Company in the preparation of financial disclosures required by the Bankruptcy Code, including the Schedules of Assets and Liabilities, the Statements of Financial Affairs and Monthly Operating Reports;
- b. advising and assisting the Company, the Company's legal counsel, and other professionals in responding to third party requests;
- c. attending meetings and assisting in communications with parties in interest and their professionals, including the Official Committee of Unsecured Creditors appointed in the Chapter 11 Case;
- d. providing litigation advisory services with respect to accounting matters, along with expert witness testimony on case related issues; and
- e. rendering such other general business consulting services or other assistance as the Company may deem necessary and which are consistent with the role of a financial advisor and not duplicative of services provided by other professionals in this case.

DSI's ability to adequately perform the Services is dependent upon the Company timely providing reliable, accurate, and complete necessary information. The Company agrees that CRO will have (i) access to and the ability to communicate with any employee of the Company or any affiliate of the Company and (ii) access to any information, including documents, relating to the Company or any Company affiliate, including, but not limited to, information concerning collections and disbursements. The Company acknowledges that DSI or CRO are not responsible for independently verifying the veracity, completeness, or accuracy of any information supplied to us by or on behalf of the Company.

DSI will submit its evaluations and analyses pursuant to this Agreement in periodic oral and written reports. Such reports are intended to and shall constitute privileged and confidential information, and shall constitute the Company's property.

Although we do not predict or warrant the outcome of any particular matter or issue, and our fees are not dependent upon such outcomes, we will perform the Services with reasonable care and in a diligent and competent manner.

Section 2 – Rates, Invoicing and Retainer

DSI will be compensated at a rate of \$100,000 per month, plus expenses (capped at \$10,000 per month), for the services of Bradley D. Sharp as CRO and such DSI personnel (including Fred Caruso) as are required to fulfill Mr. Sharp's responsibilities as CRO; provided that if any single expense exceeds \$1,000, DSI will provide reasonable documentation and will obtain the Company's prior written approval.

A number of DSI's personnel have experience in providing restructuring support services and may be utilized as Additional Personnel in this representation. Although others of our staff may

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also be involved, we have listed below certain of the DSI personnel (along with their corresponding billing rates) who would likely constitute the Additional Personnel. The individuals are:

R. Brian Calvert	\$640.00/hr.
Thomas P. Jeremiassen	\$575.00/hr.
Eric J. Held	\$495.00/hr.
Nicholas R. Troszak	\$485.00/hr.
Spencer G. Ferrero	\$350.00/hr.
Tom Frey	\$325.00/hr.

The above rates are adjusted as of January 1 of each year to reflect advancing experience, capabilities, and seniority of our professionals as well as general economic factors.

We acknowledge receipt of a retainer of \$250,000 from the Company. The purpose of the retainer is to secure a portion of our fees and expenses and to retain our status as a non-creditor should such be required for DSI to continue to provide the Services. As such, should a need arise to increase this retainer due to the level of Services DSI is providing or projected to provide, we will send the Company a supplement to this Agreement requesting the necessary increases and discuss with the Company the amount and timing of providing such increase to the retainer.

This retainer will be applied to our final invoice. If the retainer exceeds the amount of our final invoice, we will refund the difference to the Company at that time. In the event that periodic invoices are not paid timely, we will apply the retainer to the amounts owing on such invoices and, if applicable, any related late charges, and we will stop work until the retainer is replenished to the full amount required. If the retainer is not replenished within ten (10) days after the application of the retainer to unpaid balances, we reserve the right to terminate this Agreement in accordance with the provisions of Section 3 of this Agreement.

DSI also will be entitled to reimbursement for its reasonable costs and expenses. Such costs and expenses may include, among others, charges for messenger services, photocopying, travel expenses, long distance telephone charges, postage and other charges customarily invoiced by consulting firms. Airfare for international flights will be charged at the business class fare; provided that if any single expense exceeds \$1,000, DSI will provide reasonable documentation and will obtain the Company's prior written approval.

This Agreement shall be presented to the Bankruptcy Court for approval and continuation, pursuant to Bankruptcy Code Section 363 and DSI's then-prospective obligations shall be contingent upon such approval.

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Section 3 – Termination

Either the Company or DSI may terminate this Agreement for any reason with ten (10) business days' written notice. Notwithstanding anything to the contrary contained herein, the Company shall be obligated, in accordance with any orders of or procedures established by the Court, to pay and/or reimburse DSI all fees and expenses accrued under this Agreement as of the effective date of the termination.

Section 4 – Relationship of the Parties, Confidentiality

DSI will provide the Services to and for the Company, with select members of DSI assigned to specific roles for the benefit of the Company. These members will remain as DSI employees during the pendency of this case. Specifically, the parties intend that an independent contractor relationship will be created by this Agreement. Employees of DSI are not to be considered employees of the Company and are not entitled to any of the benefits that the Company provides for the Company's employees.

The Company acknowledges that all advice (written or oral) given by DSI to the Company in connection with DSI's engagement is intended solely for the benefit and use of the Company in considering the transaction to which it relates, and that no third party is entitled to rely on any such advice or communication. DSI will in no way be deemed to be providing services for any person not a party to this Agreement.

DSI agrees that all information not publicly available that is received by DSI from the Company in connection with this Agreement or that is developed pursuant to this Agreement, will be treated as confidential and will not be disclosed by DSI, except as required by Court order, or other legal process, or as may be authorized by the Company. DSI shall not be required to defend any action to obtain an order requiring disclosure of such information, but shall instead give prompt notice of any such action to the Company so that it may seek appropriate remedies, including a protective order. The Company shall reimburse DSI for all costs and fees (including reasonable attorney's fees) incurred by DSI relating to responding to (whether by objecting to or complying with) any subpoenas or requests for production of information or documents.

Section 5 – Indemnity

The Company shall name Bradley D. Sharp as its Chief Restructuring Officer and shall indemnify him on the same terms as provided to the Company's other officers and directors under the Company partnership agreement or other governing document and applicable state law. Mr. Sharp shall be included as an insured under any insurance policies or coverage available to officers and directors of the Company.

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The Company shall additionally indemnify those persons, and only those persons, serving as executive officers on the same terms as provided to the Company's other officers and directors under the Company's partnership agreement or other governing document and applicable state law, along with insurance coverage under the Company's D&O policies. Any such indemnity shall survive the expiration or termination by either party of this Agreement. Except as provided in this Section and in Section 4, there shall be no indemnification of DSI, its affiliates or the Additional Personnel.

Each and every one of the personnel employed by DSI who works on this particular project, as well as DSI officers, directors, employees and agents (the "DSI Parties") shall not be liable to the Company, or any party asserting claims on behalf of the Company, except for direct damages found in a final determination (not subject to further appeal) by a court of competent jurisdiction to be the direct result of the bad faith, self-dealing or intentional misconduct or gross negligence of DSI.

Section 6 – Conflicts

DSI has made diligent inquiries to determine whether it or any of its professionals have any connections with the Company, its creditors, or other parties in interest in the Chapter 11 Case. Based on that review, the review of DSI's conflict files and responses to inquiries from DSI's professional staff, neither DSI nor its professionals have any known conflicts with the parties in this case. DSI will separately provide its connections to parties in this case and/or their professionals.

Section 7 – No Audit

The Company acknowledges that it is hiring DSI to assist and advise the Company in business planning and operations. DSI's engagement shall not constitute an audit, review or compilation, or any other type of financial statement reporting engagement that is subject to the rules of AICPA or other such state and national professional bodies.

Section 8 – Non-Solicitation

The Company agrees not to solicit, recruit or hire any employees or agents of DSI for a period of one year subsequent to the completion and/or termination of this Agreement; provided that the Company shall not be prohibited from (x) making general advertisements for employment not specifically directed at employees of DSI or (y) employees of DSI responding to unsolicited requests for employment.

Highland Capital Management, LP
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Section 9 – Survival

The provisions of this Agreement relating to indemnification, the non-solicitation or hiring of DSI employees, and all other provisions necessary to the enforcement of the intent of this Agreement will survive the termination or expiration of this Agreement.

Section 10 – Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to conflicts of law principles.

Section 11 – Entire Agreement, Amendment

This Agreement contains the entire understanding of the parties relating to the subject matter of this Agreement and supersedes and is intended to nullify any other agreements, understandings or representations relating to the subject of this Agreement. This Agreement may not be amended or modified except in a writing signed by the parties.

If you are in agreement with the foregoing terms and conditions please indicate your acceptance by signing an original copy of this Agreement on the signature lines below, then returning one fully-executed Agreement to DSI's office. The Agreement will become effective upon execution by duly authorized representatives of the respective parties.

Very truly yours,

Bradley Sharp
Development Specialists, Inc.

AGREED AND ACKNOWLEDGED:

Highland Capital Management, L.P.
By: Strand Advisors, Inc., its general partner

By: _____, Independent Director
Date: _____

A. Definitions

- a. Electronically stored information” or “ESI” shall include all electronic files, documents, data, and information covered under the Federal Rules of Civil Procedure.

B. Preservation of ESI - Generally

- a. Debtor acknowledges that they should take reasonable and proportional steps to preserve discoverable information in the party’s possession, custody or control. This includes notifying employees possessing relevant information of their obligation to preserve such data.

C. Preservation of ESI – Specific Forms

- a. For email, Debtor uses Outlook Email on an Exchange server. Veritas Enterprise Vault is used to archive emails. Journaling is and has been in active use since 2007, and all inbound, outbound, and in-system email .communications have been preserved and are not at risk of deletion due to normal document retention practices. Out of an abundance of caution, a copy of the latest email back-up, which was performed two months ago, shall be copied and stored at a secured location.
- b. The file server used by Debtor was backed up approximately one week ago. A copy of this backup shall be created and stored on a portable hard drive at a secured location.
- c. The Sharepoint server used by Debtor was backed up approximately one week ago. A copy of this backup shall be created in a format that maintains all potentially relevant information and stored at a secured location.
- d. The Oracle E-Business Suite (EBS) server used by Debtor was backed up one week ago. A copy of this backup shall be created in a format and stored at a secured location.
- e. The Advent Geneva accounting system used by Debtor was backed up approximately one week ago. Upon reasonable notice, the Committee may submit search criteria to Debtor to run searches in Advent Geneva. Subject to Debtor’s rights to assert objections as provided by Part G herein, Debtor will provide the data resulting from such agreed searches pursuant to Part F herein..
- f. The Siepe Database (data warehouse) used by Debtor was backed up approximately one week ago. A copy of this backup shall be created in a format and stored at a secured location.
- g. For the Box account used by Debtor, to the extent routine data retention practices may result in file deletion, they shall be suspended pending further discussion with the Committee concerning the relevance of such data. Users of the Box account who have the ability to delete files shall be notified of the obligation to suspend deletion of any data stored in Box.
- h. Bloomberg data is archived for five years. Debtor shall work with Bloomberg client services to preserve a copy of all such archived material, which shall be stored at a secured location, or otherwise extend the backup window in which Bloomberg preserves the data by reasonable time to be agreed by the parties.

- i. Files may be saved locally on laptops/work computers used by employees of Debtor. This practice is discouraged, but may result in the creation of relevant ESI on local systems in a manner that will not be replicated elsewhere. Debtor shall therefore cease the deletion of data (*i.e.*, wiping) of any employee-assigned computer hard drives, such as for departing employees. Debtor shall furthermore instruct current employees not to delete files stored locally on their assigned computers.

D. Not Reasonably Accessible Documents

- a. Absent an order from the Court upon a showing of good cause, a Party from whom ESI has been requested shall not be required to search for responsive ESI from sources that are not reasonably accessible without undue burden or cost. The following types of data stores are presumed to be inaccessible and are not subject to discovery, and need not be collected or preserved, absent a particularized need for the data as established by the facts and legal issues of the case:
 - i. Deleted, slack, fragmented, or other data only accessible by forensics;
 - ii. Random access memory (RAM), temporary files, or other ephemeral data that are difficult to preserve without disabling the operating system; and
 - iii. On-line access data such as temporary internet files, history, cache, cookies, and the like.
- b. To conduct collections in a focused and efficient manner, the Parties also agree to exclude the following file types from collection: Standard system file extensions including, but not limited to, BIN, CAB, CHK, CLASS, COD, COM, DLL DRV, EXE, INF, INI, JAVA, LIB, LOG, SYS and TMP and other file extensions and directories that likely do not contain user generated content such as files identified by hash value when compared to the National Software Reference Library reference data set (RDS Hash), a sub-project of the National Institute of Standards and Technology ("NIST"), of known traceable system and application files. This process is commonly referred to as "De-NISTing."

E. Collection and Search Methodology

- a. Searches for emails in Debtor's custody shall be conducted by DSI on Debtor's Veritas Enterprise Vault storage using an unrestricted account at the earliest opportunity, but in no event later than [date]. DSI shall use an add-on component called Discovery Assistant, which enables searches based on email properties, such as senders, recipients, and dates. Discovery Assistant also permits text searching of email contents and the contents of electronic file attachments, although not pictures of text (*e.g.*, scanned PDFs). Debtor did not employ employee message or file encryption that would prevent reasonable operation of the Discovery Assistant search capabilities.
- b. The results of email searches shall be produced to the Committee pursuant to Part F below, subject to completion of any review for privilege or other purposes contemplated by this Agreement.
- c. A snapshot copy of Debtor databases (Oracle, Siepe) shall be created in a format to be specified later by agreement with the Committee per Part (C)(d), (f), above.

Prior to any production of responsive data from such a structured database Debtor will first identify the database type and version number, provide the vendor-originated database dictionary, if any, (identifying all tables in the database, their fields, the meaning of those fields, and any interrelation among fields) and any user manuals, or any other documentation describing the structure and/or content of the database, and a list of all reports that can be generated from the database. The list of reports shall be provided in native Excel (.xls or .xlsx) format.

- d. The Geneva system is highly proprietary and shall not be collected, but the Committee will be given reasonable access to that system per Part C(e), above.
- e. Debtor and Committee will meet and confer to discuss the scope of any necessary searches on the Box account.
- f. Debtor file server contents, where requested by the Committee, shall be produced pursuant to Part F below.
- g. Debtor shall propose a format for producing Sharepoint data. The Committee agrees that it is not necessary to reproduce the interface used by Debtor in the ordinary course of business for Sharepoint.

F. Format of Documents Produced

- a. Non-database ESI shall be produced as black and white Group 4 TIFF files, with a resolution of 300 DPI. Page size shall be 8.5 x 11 inches unless, in the reasonable judgment of the Producing Party, a particular item requires a different page size, and original document orientation shall be maintained (i.e., portrait to portrait and landscape to landscape). A Requesting Party may, in good faith and reasonable judgment, request a color copy of a production document if it is necessary to convey the relevant and responsive information. Such color copies may be produced as single page JPG (JPEG) image files. The Requesting Party will bear the costs for color images.
- b. The files shall be accompanied by a metadata load file, in a single standard format to be requested by the Receiving Party prior to any production (e.g., Opticon, Summation DII, or the like) showing the Bates number of each page, the appropriate unitization of the documents, and the entire family range. The Parties agree to meet and confer regarding the requested standard format prior to production.
- c. The files shall be accompanied by a .DAT text file including the delimited fields identified in the Metadata List (below). No Party will have any obligation to manually generate information to provide the fields identified in the Metadata List.
- d. The Producing Party reserves the right to make hard copy documents available for inspection and copying pursuant to Federal Rule of Civil Procedure 34.
- e. In the event that a Party identifies hard copy documents for production, hard copy paper documents shall be scanned and will include, to the extent feasible, the following fields in the .DAT text file: PRODBEG, PRODEND, PAGECOUNT, FULLTEXT, and CUSTODIAN. The Parties agree to share equally in the cost of scanning hard copy documents.
- f. For any documents that were scanned from hard copy paper documents, the Parties will produce images of hard copy documents unitized to the extent the

original documents appeared to be units in physical form, with attachments following parents, and with information that identifies the holder (or container) structure, to the extent such structure exists and it is reasonable to do so. The Producing Party is not required to OCR (Optical Character Recognition) hard copy documents. If the Receiving Party requests that hard copy documents be OCR'ed, the Receiving Party shall bear the cost of such request, unless the Parties agree to split the cost so that each has an OCR'ed copy of the documents.

- g. For ESI that the Producing Party produces in TIFF or JPEG format, the Producing Party shall electronically "burn" a legible, unique Bates number onto each page. The Bates number shall, to the extent reasonably possible: (1) identify the Producing Party; (2) maintain a constant length of nine numeric digits (including 0-padding) across the entire production; (3) contain only alphanumeric characters, no special characters or embedded spaces; and (4) be sequential within a given document. If the Bates number conceals, interferes with, or otherwise obscures any information from the source document, the Producing Party, at the request of the Receiving Party, shall produce a copy that is not obscured.
- h. For ESI that the Producing Party produces in TIFF format, if the Producing Party is producing the ESI subject to a claim that it is protected from disclosure under any confidentiality order entered in this matter, the Producing Party shall electronically "burn" the appropriate confidentiality designation onto each page of the document. If the designation conceals, interferes with, or otherwise obscures any information from the source document, the Producing Party, at the request of the Receiving Party, shall produce a copy that is not obscured.
- i. The Parties agree to produce e-mail families intact absent a privilege or work product claim, so long as each document contains responsive information; for all documents that contain a responsive, non-privileged attachment, the following fields will be produced (if available) as part of the metadata load file to indicate the parent child or parent/sibling relationship:
 - i. Production Bates begin
 - ii. Production Bates end
 - iii. Production Bates begin attachment
 - iv. Production Bates end attachment

Notwithstanding the aforementioned, all parties acknowledge that Debtor's Veritas Enterprise Vault system does not have the ability to search for the family members of responsive documents, and that Debtor does not have an obligation to manually search for non-responsive family members of otherwise responsive documents.

- j. Unless otherwise agreed, all dynamic date and time fields, where such fields are processed to contain a value, and all metadata pertaining to dates and times, will be standardized to Universal Coordinated Time (UTC) or Universal Coordinated Time + 1 (UTC+1) [TBD]. The Parties understand and acknowledge that such standardization affects only dynamic fields and metadata values and does not affect, among other things, dates and times that are hard-coded text within a file. Dates and times that are hard-coded text within a file (for example, in an email thread, dates and times of earlier messages that were converted to body text when subsequently replied to or forwarded; and in any file type, dates and times that are

typed as such by users) will be produced as part of the document text in accordance with the provisions herein.

- k. Exceptions to the Production Format
- l. Excel spreadsheets shall be produced in native application format, unless redactions are required. The Producing Party will make reasonable efforts to provide a TIFF image of a slip sheet with the Bates number of documents produced natively in its production. The corresponding native file shall be named by using the same Bates number identified on the placeholder TIFF image. Any Excel spreadsheet that requires redaction will be produced in TIFF format only. Certain types of databases are dynamic in nature and may contain information that is irrelevant. These files are sometimes large and would, if rendered to TIFF images completely, produce thousands of pages that would have little utility to a reviewer without the associated database.
- m. To the extent information from a structured data repository, such as a database, is requested, responsive information will be produced via a report or export of such data to an appropriate program that is agreeable to the requesting Party. The Parties agree to meet and confer before such data is exported.

G. Production Format Shall Not Alter Authenticity, Admissibility, or Privilege Status

- a. No Party shall object that ESI produced pursuant to this Protocol is not authentic by virtue of the ESI having been converted to TIFF. The Parties otherwise reserve all rights regarding their ability to object to the authenticity of documents.
- b. Nothing in this Protocol shall be construed to affect in any way the rights of any Party to make any objection as to the production, discoverability, admissibility, or confidentiality of documents and ESI.
- c. Nothing in this Protocol shall constitute a waiver by any Party of any claim or privilege or other protection from discovery.
- d. Nothing in this Protocol shall be interpreted to in any way limit a Producing Parties right and ability to review documents for responsiveness prior to production.
- e. Nothing in the Protocol shall require disclosure of irrelevant information or relevant information protected by the attorney-client privilege, work-product doctrine, or any other applicable privilege or immunity.

Metadata List

File Name	Field Description	Sample Values
BegBates	Bates number for the first page of the document	ABC-0000001
EndBates	Bates number for the last page of the document	ABC-0000002
BegAttach	Bates number for the first page of parent document	ABC-0000001
EndAttach	Bates number for the last page of last attachment	ABC-0000005
Pages	Number of printed pages of the document	2

Global Custodian	Custodian name produced in format: Lastname, Firstname.	Smith, Jane; Taylor, Michael
Confidentiality	Indicates if the document has been designated as “Confidential” or “Highly Confidential” pursuant to the applicable Protective Order	Confidential; Highly Confidential
Redacted	Descriptor for documents that have been redacted: “Yes” for redacted documents; “No” for non-redacted documents	Yes
Email Subject	Subject line of Email or	Text of the subject line
Document Subject	Subject value of documents	Text of the subject line
Date Sent	Date email sent	mm/dd/yyyy
Time Sent	Time email sent	hh:mm:ss AM
Date Last Modified	Date document was last modified	mm/dd/yyyy
Time Last Modified	Time document was last modified	hh:mm:ss AM
Date Created	Date document was first created	mm/dd/yyyy
To	All SMTP address of email recipients, separated by a semi-colon	Larry.murphy@email.com
From	All SMTP address of email author	Bart.cole@email.com
CC	All SMTP address of email “CC” recipients, separated by a semi-colon	Jim.James@gmail.com; bjones@yahoo.com
BCC	All SMTP address of email “BCC” recipients, separated by a semi-colon	mjones@gmail.com
Attach	The file name(s) of the documents attached to emails or embedded in files. Multiple files should be delimited by a semicolon	Filename.doc; filename2.doc
Title	The Title property of a file.	Title
Author	The Author property of a file	John Doe
MessageID	The email message ID	
FILENAME	The original name of the file excluding the path	C:\My Documents\letter.doc
DocType	Email, letter, memo, invoice, etc., if available	
Extension	The file extension	.doc

FileType	The actual file type of the document (Word, Excel, etc.) regardless of the file extension	
HashValue	MD5 Hash value of original file	
FilePath	The directory structure of the original file.	C:\My Documents\ letter.doc
PathToNative	The relative path to a produced native document	C:\VOL001\BATES0000000001.xls
PathToText	The relative path to the accompanying text file	C:\VOL001\BATES0000000001.txt
Volume	The production number or reference from the production	
Other Custodian	To the extent global deduplication is used, the field indicates the other custodians who also were in possession of the document at the time of collection	

I. Definitions

- A. “Court” means the United States Bankruptcy Court for the Northern District of Texas.
- B. “NAV” means (A) with respect to an entity that is not a CLO, the value of such entity’s assets less the value of its liabilities calculated as of the month end prior to any Transaction; and (B) with respect to a CLO, the CLO’s gross assets less expenses calculated as of the quarter end prior to any Transaction.
- C. “Non-Discretionary Account” means an account that is managed by the Debtor pursuant to the terms of an agreement providing, among other things, that the ultimate investment discretion does not rest with the Debtor but with the entity whose assets are being managed through the account.
- D. “Related Entity” means collectively (A)(i) any non-publicly traded third party in which Mr. Dondero, Mr. Okada, or Mr. Grant Scott, or Mr. John Honis (with respect to Messrs. Okada, Scott and Honis, only to the extent known by the Debtor) has any direct or indirect economic or ownership interest, including as a beneficiary of a trust; (ii) any entity controlled directly or indirectly by Mr. Dondero, Mr. Okada, Mr. Grant Scott, or Mr. John Honis (with respect to Messrs. Okada, Scott and Honis, only to the extent known by the Debtor); (iii) MGM Holdings, Inc.; (iv) any publicly traded company with respect to which the Debtor or any Related Entity has filed a Form 13D or Form 13G; (v) any relative (as defined in Section 101 of the Bankruptcy Code) of Mr. Dondero or Mr. Okada each solely to the extent reasonably knowable by the Debtor; (vi) the Hunter Mountain Investment Trust and Dugaboy Investment Trust; (vii) any entity or person that is an insider of the Debtor under Section 101(31) the Bankruptcy Code, including any “non-statutory” insider; and (viii) to the extent not included in (A)(i)-(vii), any entity included in the listing of related entities in **Schedule B** hereto (the “Related Entities Listing”); and (B) the following Transactions, (x) any intercompany Transactions with certain affiliates referred to in paragraphs 16.a through 16.e of the Debtor’s cash management motion [Del. Docket No. 7]; and (y) any Transactions with Charitable DAF Fund, L.P. (provided, however, that additional parties may be added to this subclause (y) with the mutual consent of the Debtor and the Committee, such consent not to be unreasonably withheld).
- E. “Stage 1” means the time period from the date of execution of a term sheet incorporating the protocols contained below the (“Term Sheet”) by all applicable parties until approval of the Term Sheet by the Court.
- F. “Stage 2” means the date from the appointment of a Board of Independent Directors at Strand Advisors, Inc. until 45 days after such appointment, such appointment being effective upon Court approval.
- G. “Stage 3” means any date after Stage 2 while there is a Board of Independent Directors at Strand Advisors, Inc.
- H. “Transaction” means (i) any purchase, sale, or exchange of assets, (ii) any lending or borrowing of money, including the direct payment of any obligations of another entity, (iii) the satisfaction of any capital call or other contractual

requirement to pay money, including the satisfaction of any redemption requests, (iv) funding of affiliates and (v) the creation of any lien or encumbrance.

- I. "Ordinary Course Transaction" means any transaction with any third party which is not a Related Entity and that would otherwise constitute an "ordinary course transaction" under section 363(c) of the Bankruptcy Code.
- J. "Notice" means notification or communication in a written format and shall include supporting documents necessary to evaluate the propriety of the proposed transaction.

II. Transactions involving the (i) assets held directly on the Debtor's balance sheet or the balance sheet of the Debtor's wholly-owned subsidiaries, including Jefferies Prime Account, and (ii) the Highland Select Equity Fund, L.P., Highland Multi Strategy Credit Fund, L.P., and Highland Restoration Capital Partners

A. **Covered Entities:** N/A (See entities above).

B. Operating Requirements

- 1. Ordinary Course Transactions do not require Court approval (All Stages).
 - a) Stage 1 and Stage 2: ordinary course determined by the CRO.
 - b) Stage 3: ordinary course determined by the Debtor.
- 2. Related Entity Transactions
 - a) Stage 1 and Stage 2: Transactions with Related Entities require prior approval of CRO and five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - b) Stage 3:
 - (1) Transactions with Related Entities greater than \$1,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - (2) Transactions with Related Entities greater than \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require Court approval, which the Committee agrees may be sought on an expedited basis.
- 3. Third Party Transactions (All Stages)
 - a) Except as set forth in (b) and (c) below, Transactions in excess of \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require three business days advance notice to Committee and if the Committee objects, the burden is on the

Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

- b) The Debtor may satisfy any redemption requests from entities that are not Related Entities without advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable. Redemption requests payable to Related Entities will be held in escrow and will not prevent the winding up or liquidation of any fund or entity.
- c) The Debtor may satisfy margin calls and short covers without providing the Committee advance notice if the exigencies do not allow advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable.

C. **Weekly Reporting:** The Debtor will provide the Committee with weekly reports showing all Transactions under this category.

III. Transactions involving entities the Debtor manages and in which the Debtor holds a direct or indirect interest (other than the entities discussed in Section I above)

A. **Covered Entities:** See Schedule A hereto. Schedule A includes or will include all entities the Debtor manages and in which the Debtor holds a direct or indirect interest (other than the entities discussed in Section I above).¹

B. Operating Requirements

- 1. Ordinary Course Transactions do not require Court approval (All Stages).
 - a) Stage 1 and Stage 2: ordinary course determined by the CRO.
 - b) Stage 3: ordinary course determined by the Debtor.
- 2. Related Entity Transactions
 - a) Stage 1 and Stage 2: Transactions with Related Entities require prior approval of CRO and five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - b) Stage 3:
 - (1) Transactions with Related Entities greater than \$1,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

¹ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

- (2) Transactions with Related Entities greater than \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require Court approval, which the Committee agrees may be sought on an expedited basis.

3. Third Party Transactions (All Stages)

- a) Except as set forth in (b) and (c) below, Transactions in excess of \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require three business days advance notice to Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- b) The Debtor may satisfy any redemption requests from entities that are not Related Entities without advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable. The Debtor will provide the Committee with five business days advance notice of any redemption requests made by and payable to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- c) The Debtor may satisfy margin calls and short covers without providing the Committee advance notice if the exigencies do not allow advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable.

- C. **Weekly Reporting:** The Debtor will provide the Committee with weekly reports showing all Transactions under this category.

IV. Transactions involving entities that the Debtor manages but in which the Debtor does not hold a direct or indirect interest

- A. **Covered Entities:** See Schedule A hereto. Schedule A includes or will include all entities that the Debtor manages but in which the Debtor does not hold a direct or indirect interest.²

B. Operating Requirements

1. Ordinary Course Transactions do not require Court approval (All Stages).
 - a) Stage 1 and Stage 2: ordinary course determined by the CRO.
 - b) Stage 3: ordinary course determined by the Debtor.
2. Related Entity Transactions

² The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

a) Stage 1 and Stage 2: Transactions with Related Entities require prior approval of CRO and five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

b) Stage 3:

(1) Transactions with Related Entities greater than \$1,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

(2) Transactions with Related Entities greater than \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require Court approval, which the Committee agrees may be sought on an expedited basis.

3. Third Party Transactions (All Stages):

a) Except as set forth in (b) and (c) below, any Transaction that decreases the NAV of an entity managed by the Debtor in excess of the greater of (i) 10% of NAV or (ii) \$3,000,000 requires five business days advance notice to Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

b) The Debtor may satisfy any redemption requests from entities that are not Related Entities without advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable. The Debtor will provide the Committee with five business days advance notice of any redemption requests made by and payable to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

c) The Debtor may take such steps as may be reasonably necessary to winddown any managed entity and make distributions as may be required in connection with such winddown to any required parties. The Debtor will provide the Committee with five business days advance notice of any distributions to be made to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

C. **Weekly Reporting:** The Debtor will provide the Committee with weekly reports showing all Transactions under this category.

V. Transactions involving entities that the Debtor does not manage but in which the Debtor holds a direct or indirect interest

- A. Covered Entities: See Schedule A hereto. Schedule A includes or will include all entities that the Debtor does not manage but in which the Debtor holds a direct or indirect interest.³
- B. Ordinary Course Transactions (All Stages): N/A
- C. Operating Requirements: N/A
- D. Weekly Reporting: Debtor will provide weekly reports of all cross-held asset Transactions, i.e. Transactions in which the Debtor or a Related Entity also holds a direct or indirect interest.

VI. Transactions involving entities that the Debtor does not manage and in which the Debtor does not hold a direct or indirect interest

- A. Covered Entities: See Schedule A hereto. Schedule A includes or will include all entities that the Debtor does not manage and in which the Debtor does not hold a direct or indirect interest.⁴
- B. Ordinary Course Transactions (All Stages): N/A
- C. Operating Requirements: N/A
- D. Weekly Reporting: Debtor will provide weekly reports of all cross-held asset Transactions, i.e. Transactions in which the Debtor or a Related Entity also holds a direct or indirect interest.

VII. Transactions involving Non-Discretionary Accounts

- A. Covered Entities: See Schedule A hereto. Schedule A includes or will include all non-discretionary accounts.⁵
- B. Ordinary Course Transactions (All Stages): N/A
- C. Operating Requirements: N/A
- D. Weekly Reporting: Debtor will provide weekly reports of all cross-held asset Transactions, i.e. Transactions in which the Debtor or a Related Entity also holds a direct or indirect interest.

³ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

⁴ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

⁵ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

VIII. Additional Reporting Requirements – All Stages (to the extent applicable)

- A. DSI will provide detailed lists and descriptions of internal financial and operational controls being applied on a daily basis for a full understanding by the Committee and its professional advisors three (3) business days in advance of the hearing on the approval of the Term Sheet and details of proposed amendments to said financial and operational controls no later than seven (7) days prior to their implementation.
- B. The Debtor will continue to provide weekly budget to actuals reports referencing their 13-week cash flow budget, such reports to be inclusive of all Transactions with Related Entities.

IX. Shared Services

- A. The Debtor shall not modify any shared services agreement without approval of the CRO and Independent Directors and seven business days' advance notice to counsel for the Committee.
- B. The Debtor may otherwise continue satisfying its obligations under the shared services agreements.

X. Representations and Warranties

- A. The Debtor represents that the Related Entities Listing included as **Schedule B** attached hereto lists all known persons and entities other than natural persons included in the definitions of Related Entities covered by Section I.D parts A(i)-(vii) above at the time of the execution of the Term Sheet.
- B. The Debtor represents that the list included as **Schedule C** attached hereto lists all known natural persons included in the definitions of Related Entities covered by Section I.D parts A(i)-(vii) above at the time of the execution of the Term Sheet.
- C. The Debtor represents that, if at any time the Debtor becomes aware of any person or entity, including natural persons, meeting the definition of Related Entities covered by Section I.D parts A(1)-(vii) above that is not included in the Related Entities Listing or Schedule C, the Debtor shall update the Related Entities Listing or Schedule C, as appropriate, to include such entity or person and shall give notice to the Committee thereof.

Schedule A⁶

Entities the Debtor manages and in which the Debtor holds a direct or indirect interest

1. Highland CLO Funding, Ltd. (0.63% Ownership Interest)
2. Dynamic Income Fund (0.26% Ownership Interest)

Entities that the Debtor manages but in which the Debtor does not hold a direct or indirect interest

1. Highland Prometheus Master Fund L.P.
2. NexAnnuity Life Insurance Company
3. PensionDanmark
4. Highland Argentina Regional Opportunity Fund
5. Longhorn A
6. Longhorn B
7. Collateralized Loan Obligations
 - a) Rockwall II CDO Ltd.
 - b) Grayson CLO Ltd.
 - c) Eastland CLO Ltd.
 - d) Westchester CLO, Ltd.
 - e) Brentwood CLO Ltd.
 - f) Greenbriar CLO Ltd.
 - g) Highland Park CDO Ltd.
 - h) Liberty CLO Ltd.
 - i) Gleneagles CLO Ltd.
 - j) Stratford CLO Ltd.
 - k) Jasper CLO Ltd.
 - l) Rockwall DCO Ltd.
 - m) Red River CLO Ltd.
 - n) Hi V CLO Ltd.
 - o) Valhalla CLO Ltd.
 - p) Aberdeen CLO Ltd.
 - q) South Fork CLO Ltd.
 - r) Legacy CLO Ltd.
 - s) Pam Capital
 - t) Pamco Cayman

Entities that the Debtor does not manage but in which the Debtor holds a direct or indirect interest

1. Highland Opportunistic Credit Fund
2. Highland Healthcare Opportunities Fund f/k/a Highland Long/Short Healthcare Fund
3. NexPoint Real Estate Strategies Fund
4. Highland Merger Arbitrage Fund
5. NexPoint Strategic Opportunities Fund
6. Highland Small Cap Equity Fund
7. Highland Global Allocation Fund

⁶ NTD: Schedule A is work in process and may be supplemented or amended.

8. Highland Socially Responsible Equity Fund
9. Highland Income Fund
10. Stonebridge-Highland Healthcare Private Equity Fund (“Korean Fund”)
11. SE Multifamily, LLC

Entities that the Debtor does not manage and in which the Debtor does not hold a direct or indirect interest

1. The Dugaboy Investment Trust
2. NexPoint Capital LLC
3. NexPoint Capital, Inc.
4. Highland IBoxx Senior Loan ETF
5. Highland Long/Short Equity Fund
6. Highland Energy MLP Fund
7. Highland Fixed Income Fund
8. Highland Total Return Fund
9. NexPoint Advisors, L.P.
10. Highland Capital Management Services, Inc.
11. Highland Capital Management Fund Advisors L.P.
12. ACIS CLO Management LLC
13. Governance RE Ltd
14. PCMG Trading Partners XXIII LP
15. NexPoint Real Estate Partners, LLC f/k/a HCRE Partners LLC
16. NexPoint Real Estate Advisors II LP
17. NexPoint Healthcare Opportunities Fund
18. NexPoint Securities
19. Highland Diversified Credit Fund
20. BB Votorantim Highland Infrastructure LLC
21. ACIS CLO 2017 Ltd.

Transactions involving Non-Discretionary Accounts

1. NexBank SSB Account
2. Charitable DAF Fund LP

PSZJ Draft 12/27/19

Schedule B

Related Entities Listing (other than natural persons)

PSZJ Draft 12/27/19

Schedule C

- 1.** James Dondero
- 2.** Mark Okada
- 3.** Grant Scott
- 4.** John Honis
- 5.** Nancy Dondero
- 6.** Pamela Okada
- 7.** Thomas Surgent
- 8.** Scott Ellington
- 9.** Frank Waterhouse
- 10.** Lee (Trey) Parker

EXHIBIT 20

Statement of Financial Affairs

Fill in this information to identify the case:

Debtor name Highland Capital Management, L.P.

United States Bankruptcy Court for the: NORTHERN DISTRICT OF TEXAS

Case number (if known) 19-34054-SGJ

☐ Check if this is an amended filing

Official Form 207

Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy

04/19

The debtor must answer every question. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and case number (if known).

Part 1: Income

1. Gross revenue from business

☐ None.

Identify the beginning and ending dates of the debtor's fiscal year, which may be a calendar year

Sources of revenue
Check all that apply

Gross revenue
(before deductions and exclusions)

From the beginning of the fiscal year to filing date:
From 1/01/2019 to Filing Date

☒ Operating a business
☒ Other Exhibit A

\$28,431,156.97

From the beginning of the fiscal year to filing date:
From 1/01/2019 to Filing Date

☐ Operating a business
☒ Other Exhibit A - Other Gain/(Loss)

\$125,310,540.63

For prior year:
From 1/01/2018 to 12/31/2018

☒ Operating a business
☒ Other Exhibit A

\$50,365,069.40

For prior year:
From 1/01/2018 to 12/31/2018

☐ Operating a business
☒ Other Exhibit A - Other Gain/(Loss)

\$-52,929,268.33

For year before that:
From 1/01/2017 to 12/31/2017

☒ Operating a business
☒ Other Exhibit A

\$67,911,079.00

For year before that:
From 1/01/2017 to 12/31/2017

☐ Operating a business
☒ Other Exhibit A - Other Gain/(Loss)

\$47,701,590.21



Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ****2. Non-business revenue**

Include revenue regardless of whether that revenue is taxable. *Non-business income* may include interest, dividends, money collected from lawsuits, and royalties. List each source and the gross revenue for each separately. Do not include revenue listed in line 1.

☒ None.

Description of sources of revenue	Gross revenue from each source (before deductions and exclusions)
-----------------------------------	--

Part 2: List Certain Transfers Made Before Filing for Bankruptcy**3. Certain payments or transfers to creditors within 90 days before filing this case**

List payments or transfers—including expense reimbursements—to any creditor, other than regular employee compensation, within 90 days before filing this case unless the aggregate value of all property transferred to that creditor is less than \$6,825. (This amount may be adjusted on 4/01/22 and every 3 years after that with respect to cases filed on or after the date of adjustment.)

☐ None.

Creditor's Name and Address	Dates	Total amount of value	Reasons for payment or transfer Check all that apply
3.1. Exhibit B		\$23,255,006.86	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input type="checkbox"/> Other__

4. Payments or other transfers of property made within 1 year before filing this case that benefited any insider

List payments or transfers, including expense reimbursements, made within 1 year before filing this case on debts owed to an insider or guaranteed or cosigned by an insider unless the aggregate value of all property transferred to or for the benefit of the insider is less than \$6,825. (This amount may be adjusted on 4/01/22 and every 3 years after that with respect to cases filed on or after the date of adjustment.) Do not include any payments listed in line 3. *Insiders* include officers, directors, and anyone in control of a corporate debtor and their relatives; general partners of a partnership debtor and their relatives; affiliates of the debtor and insiders of such affiliates; and any managing agent of the debtor. 11 U.S.C. § 101(31).

☐ None.

Insider's name and address Relationship to debtor	Dates	Total amount of value	Reasons for payment or transfer
4.1. Exhibit C		\$36,608,252.91	

5. Repossessions, foreclosures, and returns

List all property of the debtor that was obtained by a creditor within 1 year before filing this case, including property repossessed by a creditor, sold at a foreclosure sale, transferred by a deed in lieu of foreclosure, or returned to the seller. Do not include property listed in line 6.

☒ None

Creditor's name and address	Describe of the Property	Date	Value of property
-----------------------------	--------------------------	------	-------------------

6. Setoffs

List any creditor, including a bank or financial institution, that within 90 days before filing this case set off or otherwise took anything from an account of the debtor without permission or refused to make a payment at the debtor's direction from an account of the debtor because the debtor owed a debt.

☒ None

Creditor's name and address	Description of the action creditor took	Date action was taken	Amount
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Part 3: Legal Actions or Assignments**7. Legal actions, administrative proceedings, court actions, executions, attachments, or governmental audits**

List the legal actions, proceedings, investigations, arbitrations, mediations, and audits by federal or state agencies in which the debtor was involved in any capacity—within 1 year before filing this case.

Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ**☐ None.

Case title Case number	Nature of case	Court or agency's name and address	Status of case
7.1. Exhibit D			<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input type="checkbox"/> Concluded
7.2. Internal dispute resolution department within the IRS	IRS Appeal	Department of the Treasury 4050 Alpha Road Suite 517, MC: 8000NDAL Dallas, TX 75201-7849	<input type="checkbox"/> Pending <input checked="" type="checkbox"/> On appeal <input type="checkbox"/> Concluded

8. Assignments and receivership

List any property in the hands of an assignee for the benefit of creditors during the 120 days before filing this case and any property in the hands of a receiver, custodian, or other court-appointed officer within 1 year before filing this case.

☒ None**Part 4: Certain Gifts and Charitable Contributions****9. List all gifts or charitable contributions the debtor gave to a recipient within 2 years before filing this case unless the aggregate value of the gifts to that recipient is less than \$1,000**☐ None

Recipient's name and address	Description of the gifts or contributions	Dates given	Value
9.1. Exhibit E	Debtor does not track recipient of gift or contribution.		\$445,725.61
Recipients relationship to debtor			

Part 5: Certain Losses**10. All losses from fire, theft, or other casualty within 1 year before filing this case.**☒ None

Description of the property lost and how the loss occurred	Amount of payments received for the loss If you have received payments to cover the loss, for example, from insurance, government compensation, or tort liability, list the total received. List unpaid claims on Official Form 106A/B (Schedule A/B: Assets – Real and Personal Property).	Dates of loss	Value of property lost

Part 6: Certain Payments or Transfers**11. Payments related to bankruptcy**

List any payments of money or other transfers of property made by the debtor or person acting on behalf of the debtor within 1 year before the filing of this case to another person or entity, including attorneys, that the debtor consulted about debt consolidation or restructuring, seeking bankruptcy relief, or filing a bankruptcy case.

☐ None.

Who was paid or who received the transfer? Address	If not money, describe any property transferred	Dates	Total amount or value

Debtor **Highland Capital Management, L.P.**

Case number (if known) **19-34054-SGJ**

	Who was paid or who received the transfer? Address	If not money, describe any property transferred	Dates	Total amount or value
11.1.	Development Specialists, Inc. 10 South LaSalle Suite 3300 Chicago, IL 60603		10/07/2019	\$250,000.00
	Email or website address dsiconsulting.com			
	Who made the payment, if not debtor?			
11.2.	Pachulski Stang Ziehl & Jones LLP 10100 Santa Monica Blvd. 13th Floor Los Angeles, CA 90067		10/02/2019	\$500,000.00
	Email or website address http://www.pszjlaw.com/			
	Who made the payment, if not debtor?			
11.3.	Kurtzman Carson Consultants LLC Dept CH 16639 Palatine, IL 60055		10/07/2019	\$50,000.00
	Email or website address https://www.kccllc.com/			
	Who made the payment, if not debtor?			

12. Self-settled trusts of which the debtor is a beneficiary

List any payments or transfers of property made by the debtor or a person acting on behalf of the debtor within 10 years before the filing of this case to a self-settled trust or similar device.

Do not include transfers already listed on this statement.

☒ None.

Name of trust or device	Describe any property transferred	Dates transfers were made	Total amount or value
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13. Transfers not already listed on this statement

List any transfers of money or other property by sale, trade, or any other means made by the debtor or a person acting on behalf of the debtor within 2 years before the filing of this case to another person, other than property transferred in the ordinary course of business or financial affairs. Include both outright transfers and transfers made as security. Do not include gifts or transfers previously listed on this statement.

☐ None.

Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ**

	Who received transfer? Address	Description of property transferred or payments received or debts paid in exchange	Date transfer was made	Total amount or value
13.1	Highland Select Equity Fund, L.P. 300 Crescent Ct. Dallas, TX 75201	Transfer of 888,731 shares of public security in exchange for LP interest.	12/26/2018	\$19,632,067.79
	Relationship to debtor Fund managed by the debtor.			
13.2	Highland Select Equity Fund, L.P. 300 Crescent Ct. Dallas, TX 75201	Transfer of 214,000 shares of public security in exchange for LP interest.	3/12/2018	\$6,385,760.00
	Relationship to debtor Fund managed by the debtor			
13.3	Highland Select Equity Fund, L.P. 300 Crescent Ct. Suite 700 Dallas, TX 75201	Transfer of 250,000 shares of public security for LP interest	7/23/2019	\$10,297,500.00
	Relationship to debtor Fund managed by the debtor			

Part 7: Previous Locations**14. Previous addresses**

List all previous addresses used by the debtor within 3 years before filing this case and the dates the addresses were used.

☐ Does not apply

	Address	Dates of occupancy From-To
14.1.	Parkway Bent Tree 17130 Dallas Parkway Suite 230 Dallas, TX 75248	10/16/2016 – 8/30/2018
14.2.	2200 Ross Avenue Suite 4700E Storage Site Dallas, TX 75201	10/16/2016 – 12/31/2018

Part 8: Health Care Bankruptcies**15. Health Care bankruptcies**

Is the debtor primarily engaged in offering services and facilities for:

- diagnosing or treating injury, deformity, or disease, or
- providing any surgical, psychiatric, drug treatment, or obstetric care?

- ☒ No. Go to Part 9.
☐ Yes. Fill in the information below.

Facility name and address	Nature of the business operation, including type of services the debtor provides	If debtor provides meals and housing, number of patients in debtor's care
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Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ****Part 9: Personally Identifiable Information****16. Does the debtor collect and retain personally identifiable information of customers?**

- ☐ No.
☒ Yes. State the nature of the information collected and retained.

Debtor has information including SS#, tax ID, mailing address, email address, and limited KYC for fund investors.

Does the debtor have a privacy policy about that information?

- ☐ No
☒ Yes

17. Within 6 years before filing this case, have any employees of the debtor been participants in any ERISA, 401(k), 403(b), or other pension or profit-sharing plan made available by the debtor as an employee benefit?

- ☐ No. Go to Part 10.
☒ Yes. Does the debtor serve as plan administrator?

☐ No Go to Part 10.

☒ Yes. Fill in below:

Name of plan

Highland 401(K) Plan

Employer identification number of the plan

EIN: **75-2716725**

Has the plan been terminated?

- ☒ No
☐ Yes

☐ No Go to Part 10.

☒ Yes. Fill in below:

Name of plan

**Highland Capital Management, L.P. Retirement Plan and Trust
(Defined Benefit Plan)**

Employer identification number of the plan

EIN: **75-2716725**

Has the plan been terminated?

- ☒ No
☐ Yes

Part 10: Certain Financial Accounts, Safe Deposit Boxes, and Storage Units**18. Closed financial accounts**

Within 1 year before filing this case, were any financial accounts or instruments held in the debtor's name, or for the debtor's benefit, closed, sold, moved, or transferred?

Include checking, savings, money market, or other financial accounts; certificates of deposit; and shares in banks, credit unions, brokerage houses, cooperatives, associations, and other financial institutions.

- ☒ None

Financial Institution name and Address

Last 4 digits of account number

Type of account or instrument

Date account was closed, sold, moved, or transferred

Last balance before closing or transfer

19. Safe deposit boxes

List any safe deposit box or other depository for securities, cash, or other valuables the debtor now has or did have within 1 year before filing this case.

- ☒ None

Depository institution name and address

**Names of anyone with access to it
Address**

Description of the contents

Do you still have it?

20. Off-premises storage

List any property kept in storage units or warehouses within 1 year before filing this case. Do not include facilities that are in a part of a building in which the debtor does business.

Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ**☐ None

Facility name and address	Names of anyone with access to it	Description of the contents	Do you still have it?
Iron Mountain PO BOX 915004 Dallas, TX 75391	Employee has login access to request documents.	Firm-wide documents sent off-site to retain documents per the firm's retention policy.	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes
Natural Disasters Site 900 Venture Dr. Allen, TX 75013	Highland Capital Management IT Department	Primary Data Center - Storage	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes
Natural Disasters Site 3010 Waterview Parkway Richardson, TX 75080	Highland Capital Management IT Department	Natural Disasters Site - Storage	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes

Part 11: Property the Debtor Holds or Controls That the Debtor Does Not Own**21. Property held for another**

List any property that the debtor holds or controls that another entity owns. Include any property borrowed from, being stored for, or held in trust. Do not list leased or rented property.

☐ None

Owner's name and address	Location of the property	Describe the property	Value
James Dondero	300 Crescent Court Suite 700 Dallas, TX 75201	Artwork	Unknown

Part 12: Details About Environment Information

For the purpose of Part 12, the following definitions apply:

Environmental law means any statute or governmental regulation that concerns pollution, contamination, or hazardous material, regardless of the medium affected (air, land, water, or any other medium).

Site means any location, facility, or property, including disposal sites, that the debtor now owns, operates, or utilizes or that the debtor formerly owned, operated, or utilized.

Hazardous material means anything that an environmental law defines as hazardous or toxic, or describes as a pollutant, contaminant, or a similarly harmful substance.

Report all notices, releases, and proceedings known, regardless of when they occurred.

22. Has the debtor been a party in any judicial or administrative proceeding under any environmental law? Include settlements and orders.

- ☒ No.
☐ Yes. Provide details below.

Case title Case number	Court or agency name and address	Nature of the case	Status of case
---------------------------	----------------------------------	--------------------	----------------

23. Has any governmental unit otherwise notified the debtor that the debtor may be liable or potentially liable under or in violation of an environmental law?

- ☒ No.
☐ Yes. Provide details below.

Site name and address	Governmental unit name and address	Environmental law, if known	Date of notice
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24. Has the debtor notified any governmental unit of any release of hazardous material?

Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ**

- ☒ No.
☐ Yes. Provide details below.

Site name and address	Governmental unit name and address	Environmental law, if known	Date of notice
-----------------------	------------------------------------	-----------------------------	----------------

Part 13: Details About the Debtor's Business or Connections to Any Business**25. Other businesses in which the debtor has or has had an interest**

List any business for which the debtor was an owner, partner, member, or otherwise a person in control within 6 years before filing this case. Include this information even if already listed in the Schedules.

☐ None

Business name address	Describe the nature of the business	Employer Identification number Do not include Social Security number or ITIN.
25.1. Exhibit F		Dates business existed EIN: From-To

26. Books, records, and financial statements

26a. List all accountants and bookkeepers who maintained the debtor's books and records within 2 years before filing this case.

☐ None

Name and address	Date of service From-To
26a.1. Frank Waterhouse 300 Crescent Court Suite 700 Dallas, TX 75201	10/23/06 - Current
26a.2. David Klos 300 Crescent Court Suite 700 Dallas, TX 75201	03/30/09 - Current
26a.3. Kristin Hendrix 300 Crescent Court Suite 700 Dallas, TX 75201	12/16/04 - Current
26a.4. Sean Fox 300 Crescent Court Suite 700 Dallas, TX 75201	06/25/13 - Current
26a.5. Drew Wilson 300 Crescent Court Suite 700 Dallas, TX 75201	02/06/12 - 09/14/18
26a.6. Hayley Eliason 300 Crescent Court Suite 700 Dallas, TX 75201	11/26/18 - Current
26a.7. Blair Roeber 300 Crescent Court Suite 700 Dallas, TX 75201	09/01/15 - Current

26b. List all firms or individuals who have audited, compiled, or reviewed debtor's books of account and records or prepared a financial statement within 2 years before filing this case.

Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ**☐ None

Name and address	Date of service From-To
26b.1. PricewaterhouseCoopers LLP 2121 N Pearl St Dallas, TX 75201	2003 - Current

26c. List all firms or individuals who were in possession of the debtor's books of account and records when this case is filed.

☐ None

Name and address	If any books of account and records are unavailable, explain why
26c.1. Boyd Gosserand 300 Crescent Ct. St 700 Dallas, TX 75201	
26c.2. Deloitte - Tax PO Box 844736 Dallas, TX 75284	
26c.3. Centroid -Accounting Software Consultant 6860 Dallas Pkwy Suite 560 Dallas, TX 75204	
26c.4. Oracle - Accounting Software PO Box 203448 Dallas, TX 75320	
26c.5. Wolters Kluwer - Tax PO Box 71882 Chicago, IL 60694	

26d. List all financial institutions, creditors, and other parties, including mercantile and trade agencies, to whom the debtor issued a financial statement within 2 years before filing this case.

☐ None

Name and address
26d.1. AgeeFisherBarrett, LLC 750 Hammond Dr BLDG 17 Atlanta, GA 30328
26d.2. Bowman Law LLC 840 Tom Wheeler Lane Mc Ewen, TN 37101
26d.3. CBIZ Valuation Group, Inc. 3030 LBJ Freeway, Ste 1650 Dallas, TX 75234
26d.4. Cole Schotz Court Plaza North 25 Main Street, PO Box 800 Hackensack, NJ 07602
26d.5. Colorado FSC 188 Inverness Drive West Ste. 100 Centennial, CO 80112

Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ****Name and address**

-
- 26d.6. **Concordeis**
1120 East Long Lake Road
Ste 207
Troy, MI 48085
-
- 26d.7. **Courtland T Group**
PO Box 11929
Newport Beach, CA 92658
-
- 26d.8. **Crown Capital Securities**
725 Town & Country Rd
Ste 530
Orange, CA 92868
-
- 26d.9. **Deloitte Tax LLP**
PO Box 844736
Dallas, TX 75284
-
- 26d.10. **DFPG Investments, Inc.**
9017 S. Riverside Dr.
Ste 210
Sandy, UT 84070
-
- 26d.11. **Discipline Advisors**
14135 G-100 Midway Rd.
Dallas, TX 75244
-
- 26d.12. **Development Specialists, Inc.**
10 S. LaSalle St.
Chicago, IL 60603
-
- 26d.13. **Emerson Equity**
155 Bovet Rd. #725
San Mateo, CA 94402
-
- 26d.14. **Frontier Bank**
5100 S I-35 Service Rd.
Oklahoma City, OK 73129
-
- 26d.15. **Grant Thornton LLP**
33570 Treasury Center
Chicago, IL 60694
-
- 26d.16. **Great Southern Bank**
8201 Preston Road
Suite 305
Dallas, TX 75225
-
- 26d.17. **Key Bank**
ATTN: KREC Loan Services
4910 Tiedman Road
3rd Floor
Cleveland, OH 44144
-
- 26d.18. **KPMG**
3 Chesnut Ridge Rd
Montvale, NJ 07645
-
- 26d.19. **Maples & Calder**
Ugland House PO Box 309
S. Church Street George Town
Grand Cayman, Cayman Island
-

Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ****Name and address**

26d.20. **Payne and Smith**
5952 Royal Lane
Suite 158
Dallas, TX 75230

26d.21. **PWC**
PO Box 952282
Dallas, TX 75395

26d.22. **Squire Patton Boggs**
PO Box 643051
Cincinnati, OH 45264

26d.23. **WC Capital Partners**

26d.24. **Western International Securities, Inc.**
70 S. Lake Ave
Ste 700
Pasadena, CA 91101

26d.25. **Jean Francois Lemay**
52 Harold Street
Etobicoke M8Z 3R3

27. Inventories

Have any inventories of the debtor's property been taken within 2 years before filing this case?

- ☒ No
☐ Yes. Give the details about the two most recent inventories.

Name of the person who supervised the taking of the inventory**Date of inventory****The dollar amount and basis (cost, market, or other basis) of each inventory****28. List the debtor's officers, directors, managing members, general partners, members in control, controlling shareholders, or other people in control of the debtor at the time of the filing of this case.**

Name	Address	Position and nature of any interest	% of interest, if any
Strand Advisors, Inc.	300 Crescent Ct, Ste 700 Dallas, TX 75201	General Partner	0.2508%
Name	Address	Position and nature of any interest	% of interest, if any
The Dugaboy Investment Trust	300 Crescent Ct, Ste 700 Dallas, TX 75201	Voting Limited Partner	0.1866%
Name	Address	Position and nature of any interest	% of interest, if any
Mark Okada	300 Crescent Ct, Ste 700 Dallas, TX 75201	Voting Limited Partner	0.0487%
Name	Address	Position and nature of any interest	% of interest, if any
Mark and Pamela Okada Family Trust	300 Crescent Ct, Ste 700 Dallas, TX 75201	Voting Limited Partner	0.0098%
Name	Address	Position and nature of any interest	% of interest, if any
Mark and Pamela Okada Family Trust - #2	300 Crescent Ct, Ste 700 Dallas, TX 75201	Voting Limited Partner	0.0042%

Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ**

Name	Address	Position and nature of any interest	% of interest, if any
Hunter Mountain Investment Trust	1100 N Market St Wilmington, DE 19890	Non-voting Limited Partner	99.50%
Name	Address	Position and nature of any interest	% of interest, if any
James Dondero	300 Crescent Ct, Ste 700 Dallas, TX 75201	Sole Shareholder of General Partner	100%
Name	Address	Position and nature of any interest	% of interest, if any
James Dondero	300 Crescent Ct, Ste 700 Dallas, TX 75201	President of General Partner	100% of the General Partner
Name	Address	Position and nature of any interest	% of interest, if any
Scott Ellington	300 Crescent Ct, Ste 700 Dallas, TX 75201	Secretary of General Partner	0.00%
Name	Address	Position and nature of any interest	% of interest, if any
Frank Waterhouse	300 Crescent Ct, Ste 700 Dallas, TX 75201	Treasurer of General Partner	0.00%

29. Within 1 year before the filing of this case, did the debtor have officers, directors, managing members, general partners, members in control of the debtor, or shareholders in control of the debtor who no longer hold these positions?

- ☐ No
☒ Yes. Identify below.

Name	Address	Position and nature of any interest	Period during which position or interest was held
Mark Okada	300 Crescent Ct, Ste 700 Dallas, TX 75201	Executive Vice President	Since inception to 9/30/2019
Name	Address	Position and nature of any interest	Period during which position or interest was held
Trey Parker	300 Crescent Ct, Ste 700 Dallas, TX 75201	Assistant Secretary	8/21/2015 - 4/15/2019

30. **Payments, distributions, or withdrawals credited or given to insiders**

Within 1 year before filing this case, did the debtor provide an insider with value in any form, including salary, other compensation, draws, bonuses, loans, credits on loans, stock redemptions, and options exercised?

- ☐ No
☒ Yes. Identify below.

Name and address of recipient	Amount of money or description and value of property	Dates	Reason for providing the value
30.1 Exhibit G	8,722,414.86		
Relationship to debtor			

31. Within 6 years before filing this case, has the debtor been a member of any consolidated group for tax purposes?

Debtor Highland Capital Management, L.P.

Case number (if known) 19-34054-SGJ

☒ No
☐ Yes. Identify below.

Name of the parent corporation

Employer Identification number of the parent corporation

32. Within 6 years before filing this case, has the debtor as an employer been responsible for contributing to a pension fund?

☒ No
☐ Yes. Identify below.

Name of the pension fund

Employer Identification number of the parent corporation

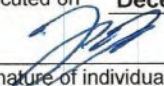
Part 14: Signature and Declaration

WARNING — Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

I have examined the information in this *Statement of Financial Affairs* and any attachments and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 13, 2019


 Signature of individual signing on behalf of the debtor

Bradley Sharp

Printed name

Position or relationship to debtor Chief Restructuring Officer

Are additional pages to *Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy* (Official Form 207) attached?

☐ No
☒ Yes

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit A - SOFA 1

Revenue Account	Year 2019 [1]		Year 2018	Year 2017
Operating Revenue				
Management fees	\$	18,776,701.38	\$ 35,264,426.88	\$ 37,098,010.50
Shared services fees		6,002,769.24	9,187,200.55	9,445,221.98
Incentive fees		150,925.36	18,465.92	10,042,499.76
Interest and Investment Income		2,625,221.26	4,857,157.03	4,478,946.34
Miscellaneous Income		875,539.73	1,037,819.02	6,846,400.42
Total Operating Revenue	\$	28,431,156.97	\$ 50,365,069.40	\$ 67,911,079.00
Other Gain/(Loss)				
Interest income	\$	5,765,215.32	\$ 7,503,164.74	\$ 7,049,038.53
Other income/expense		838,191.46	658,514.02	3,723,833.60
Net realized gains on sales of investment transactions		3,959,534.93	13,396,884.40	6,494,555.20
Net change in unrealized gains/(losses) of investments		(6,692,741.56)	(56,529,224.39)	27,322,977.50
Net earnings/(losses) from equity method investees		121,440,340.48	(17,958,607.10)	3,111,185.38
Total Other Gain/(Loss)	\$	125,310,540.63	\$ (52,929,268.33)	\$ 47,701,590.21

[1] Date ranges from 12/31/2018 to end of business 10/15/2019.

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit B - SOFA 3 [1]

Trading Partner Name	Trading Partner Address	Payment Date	Payment Amount	Reason for Transfer
Wilmer Cutler Pickering Hale and Dorr LLP	PO Box 7247-8760 Philadelphia PA 19170-8760	7/18/2019	\$ 20,275.50	Professional Services
Canteen Vending Services	PO Box 417632 Boston MA 02241-7632	7/18/2019	1,285.16	Suppliers/Vendors
Platinum Parking	300 Crescent Court Level G1, LB#102 Dallas TX 75201	7/18/2019	990.00	Professional Services
AT&T MOBILITY	PO BOX 6463 CAROL STREAM IL 60197-6463	7/19/2019	8,789.14	Professional Services
Highland Capital Management Korea Limited	(Seoul Finance Center, Taepyeongro-1-ga) 21F, 136, Sejong-daero, Jung-gu, Seoul, Korea	7/19/2019	630,000.00	Intercompany Funding
American Airlines	4255 Amon Carter Blvd MD 4106 Fort Worth TX 76155	7/22/2019	30,000.00	Professional Services
TRICOR BUSINESS OUTSOURCING	80 Robinson Rd, Singapore 068898	7/22/2019	28,122.16	Intercompany Funding
Meister Seelig & Fein LLP	125 Park Avenue 7th Floor New York NY 10017	7/22/2019	24,228.30	Professional Services
Flagship Cruises & Events	PO Box 120751 San Diego CA 92112	7/22/2019	16,103.26	Suppliers/Vendors
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	7/23/2019	146,190.02	Employee Benefits
Abrams & Bayliss LLP	20 Montchanin Road, Suite 200 Wilmington DE 19807	7/24/2019	53,237.45	Professional Services
Pricewaterhouse Coopers, LLP	8 Cross St. #17-00 PWC Singapore Building Singapore 048424	7/24/2019	14,461.66	Professional Services
Siepe Software, LLC	5440 Harvest Hill Rd Suite 100, Dallas, TX 75230	7/25/2019	36,084.06	Professional Services
Consultant	2620 White Rock Rd. Dallas TX 75214	7/25/2019	6,754.00	Professional Services
Reid Collins & Tsai LLP	4301 Westbank Drive Building B Suite 230 Austin TX 78746	7/30/2019	82,831.45	Professional Services
Paxstone Capital LLP	483 Green Lanes, London, Greater London, N13 4BS	7/30/2019	46,063.81	Professional Services
Charles Schwab	PO Box 1270 Tulsa, OK 74101-1270	7/31/2019	41,053.47	Employee Benefits
HIGHLAND CREDIT OPPORTUNITIES FUND	300 Crescent Court, Suite 700 Dallas, TX 75201	7/31/2019	628,000.00	Intercompany Funding
Arris Western Corp.	718 N Buckner #316 Dallas TX 75218	7/31/2019	11,000.00	Professional Services
Professional Speaker	Koa Kai, LLC PO Box 232307 Leucadia CA 92023	7/31/2019	15,000.00	Suppliers/Vendors
Pershing LLC	One Pershing Plaza Attn: IBD - 15th Floor Jersey City NJ 07399	8/1/2019	500,000.00	Investing
Consultant	300 Crescent Court, Suite 700 Dallas, TX 75201	8/1/2019	39,586.07	Professional Services
Crescent TC Investors LP	200 Crescent Ct Suite 250 Dallas TX 75201	8/1/2019	155,361.38	Rent Payment
Brasilinvest Empreendimentos e Participações S/A	Brazil	8/1/2019	10,000.00	Intercompany Funding
Frontier State Bank	5100 S I-35 Service Rd, Oklahoma City, OK 73129	8/1/2019	68,002.70	Secured Loan Payment
Massand Capital, LLC	8140 Walnut Hill Lane, Suite 310 Dallas, TX 75231	8/1/2019	54,979.21	Professional Services
Pershing LLC	One Pershing Plaza Attn: IBD - 15th Floor Jersey City NJ 07399	8/2/2019	11,959.71	Investing
Bloomberg Finance LP	PO Box 416604 Boston MA 02241-6604	8/2/2019	252,041.98	Professional Services
AT&T	PO BOX 5019 CAROL STREAM IL 60197	8/2/2019	259.05	Professional Services
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	8/2/2019	86,126.71	Employee Benefits
Abrams & Bayliss LLP	20 Montchanin Road, Suite 200 Wilmington DE 19807	8/7/2019	17,133.03	Professional Services
HIGHLAND CREDIT OPPORTUNITIES FUND	300 Crescent Court, Suite 700 Dallas, TX 75201	8/7/2019	441,000.00	Intercompany Funding
Status Labs.com	151 South 1st Suite 100 Austin TX 78704	8/7/2019	9,500.00	Professional Services
PetroCap Partners III, L.P.	3333 Lee Parkway Suite 750 Dallas TX 75219	8/7/2019	510,350.41	Investing
HIGHLAND CAPITAL MANAGEMENT, LP	300 Crescent Court, Suite 700 Dallas, TX 75201	8/8/2019	115,843.80	Employee Benefits
AT&T	PO BOX 5019 CAROL STREAM IL 60197	8/8/2019	3,573.58	Professional Services
Flexential Colorado Corp.	PO Box 732368 Dallas TX 75373-2368	8/8/2019	12,056.49	Professional Services
Canteen Vending Services	PO Box 417632 Boston MA 02241-7632	8/8/2019	3,267.49	Suppliers/Vendors
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	8/9/2019	157,850.27	Employee Benefits
Liberty Life Assurance Company of Boston - Group Benefits	PO Box 2658 Carol Stream IL 60132-2658	8/9/2019	5,283.26	Employee Benefits
ICBI	London	8/13/2019	12,420.78	Professional Services
Eagle Equity Advisors, LLC	300 Crescent Court, Suite 700 Dallas, TX 75201	8/13/2019	155,000.00	Intercompany Funding
Connolly Gallagher LLP	1201 North Market Street 20th Floor Wilmington DE 19801	8/13/2019	18,295.70	Professional Services
Charles Schwab	PO Box 1270 Tulsa, OK 74101-1270	8/14/2019	41,300.58	Employee Benefits
CBIZ Valuation Group, Inc.	3030 LBJ Freeway, Ste 1650 Dallas TX 75234	8/14/2019	15,000.00	Professional Services
Consultant	2620 White Rock Rd. Dallas TX 75214	8/14/2019	5,357.00	Professional Services
Siepe Services, LLC	5440 Harvest Hill Road Suite 100 Dallas TX 75230	8/14/2019	174,256.34	Professional Services
Intex Solutions, Inc.	Accounts Receivable 110 A St Needham MA 02494-2807	8/15/2019	35,200.00	Professional Services
AT&T	PO Box 9005 Carol Stream IL 60197-9005	8/15/2019	927.16	Professional Services
ABM	PO Box 419860 Boston MA 02241-9860	8/15/2019	5,884.76	Suppliers/Vendors
LinkedIn Corporation	62228 Collections Center Drive Chicago IL 60693-0622	8/15/2019	19,719.93	Professional Services
PetroCap Partners II, LP	300 Crescent Court, Suite 700 Dallas, TX 75201	8/15/2019	1,244,586.77	Investing
Houlihan Lokey	10250 Constellation Blvd, 5th Floor Attn: Accounts Receivable Los Angeles CA 90067-6802	8/15/2019	55,601.49	Professional Services
Deloitte Tax LLP	PO Box 844736 Dallas TX 75284-4736	8/15/2019	137,396.00	Professional Services
MacroMavens, LLC	180 W. 20th Street Suite 1700 New York NY 10011	8/15/2019	18,816.84	Professional Services
GRUBHUB for Work	PO Box 748570 Los Angeles CA 90074-8570	8/15/2019	13,823.98	Suppliers/Vendors
Arris Western Corp.	718 N Buckner #316 Dallas TX 75218	8/15/2019	1,420.63	Professional Services
TRICOR BUSINESS OUTSOURCING	80 Robinson Rd, Singapore 068898	8/16/2019	36,135.64	Intercompany Funding
ROWLETT HILL, LLP	25 Highland Park Village, Suite 100-448 Dallas TX 75205	8/16/2019	30,187.50	Professional Services
CDW Direct	PO BOX 75723 CHICAGO IL 60675-5723	8/16/2019	634.00	Suppliers/Vendors
Bloomberg Finance LP	PO Box 416604 Boston MA 02241-6604	8/16/2019	6,750.00	Professional Services
BCA Research Inc	1002 Sherbrooke St. W Suite 1600 Montreal Quebec H3A 3L6	8/16/2019	19,996.94	Professional Services
Willis of Texas, Inc.	PO Box 731739 Dallas TX 75373-1739	8/16/2019	5,754.18	Insurance
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	8/16/2019	89,965.15	Employee Benefits
Thomson West	PO Box 6292 Carol Stream IL 60197-6292	8/22/2019	21,339.33	Suppliers/Vendors
Duff & Phelps, LLC	DUFF & PHELPS, LLC 12595 Collection Center Drive Chicago IL 60693	8/23/2019	100,000.00	Professional Services
TRICOR BUSINESS OUTSOURCING	80 Robinson Rd, Singapore 068898	8/23/2019	50,934.56	Intercompany Funding
CDW Direct	PO BOX 75723 CHICAGO IL 60675-5723	8/23/2019	97.96	Suppliers/Vendors
Concur Technologies, Inc.	62157 Collections Center Drive Chicago IL 60693	8/23/2019	4,104.85	Professional Services
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	8/23/2019	91,020.22	Employee Benefits
Thomson West	PO Box 6292 Carol Stream IL 60197-6292	8/23/2019	3,153.32	Suppliers/Vendors
GRUBHUB for Work	PO Box 748570 Los Angeles CA 90074-8570	8/23/2019	2,150.47	Suppliers/Vendors
Highland Capital Management New York	300 Crescent Court, Suite 700 Dallas, TX 75201	8/26/2019	150,000.00	Intercompany Funding
TW Telecom Holdings, Ilc	PO Box 910182 Denver CO 80291-0182	8/26/2019	8,657.28	Professional Services

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Trading Partner Name	Trading Partner Address	Payment Date	Payment Amount	Reason for Transfer
TW Telecom Holdings, llc	PO Box 910182 Denver CO 80291-0182	8/26/2019	9,065.13	Professional Services
HIGHLAND CREDIT OPPORTUNITIES FUND	300 Crescent Court, Suite 700 Dallas, TX 75201	8/27/2019	300,000.00	Intercompany Funding
Acis Capital Management	Attn: Rakhee V. Patel, Winstead PC 500 Winstead Building Dallas TX 75201	8/27/2019	12,249.65	Professional Services
Canteen Vending Services	PO Box 417632 Boston MA 02241-7632	8/27/2019	2,608.49	Suppliers/Vendors
Greenwood Office Outfitters	2951 Suffolk Drive Suite 640 Fort Worth TX 76133-1149	8/28/2019	12,877.82	Suppliers/Vendors
Charles Schwab	PO Box 1270 Tulsa, OK 74101-1270	8/29/2019	95,443.51	Employee Benefits
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	8/29/2019	118,192.57	Employee Benefits
Eagle Equity Advisors, LLC	300 Crescent Court, Suite 700 Dallas, TX 75201	8/29/2019	75,000.00	Intercompany Funding
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	8/29/2019	55,000.00	Intercompany Funding
Canteen Vending Services	PO Box 417632 Boston MA 02241-7632	8/29/2019	697.89	Suppliers/Vendors
Platinum Parking	300 Crescent Court Level G1, LB#102 Dallas TX 75201	8/29/2019	14,857.95	Professional Services
Consultant	300 Crescent Court, Suite 700 Dallas, TX 75201	8/30/2019	111,212.19	Professional Services
Arris Western Corp.	718 N Buckner #316 Dallas TX 75218	8/30/2019	11,000.00	Professional Services
Brasilinvest Empreendimentos e Participacões S/A	Brazil	9/3/2019	10,000.00	Intercompany Funding
Crescent TC Investors LP	PO Box 841772 Dallas TX 75284-1772	9/3/2019	156,958.51	Rent Payment
AT&T	PO Box 9005 Carol Stream IL 60197-9005	9/3/2019	5,690.12	Professional Services
Frontier State Bank	5100 S I-35 Service Rd, Oklahoma City, OK 73129	9/3/2019	404,238.30	Secured Loan Payment
AT&T	PO BOX 5019 CAROL STREAM IL 60197	9/3/2019	259.77	Professional Services
AT&T	PO BOX 5019 CAROL STREAM IL 60197	9/3/2019	295.76	Professional Services
Willis of Texas, Inc.	Dallas/Ft. Worth Division PO Box 730310 Dallas TX 75373-0310	9/3/2019	21,133.38	Insurance
Pershing LLC	One Pershing Plaza Attn: IBD - 15th Floor Jersey City NJ 07399	9/4/2019	500,000.00	Investing
HIGHLAND CREDIT OPPORTUNITIES FUND	300 Crescent Court, Suite 700 Dallas, TX 75201	9/4/2019	500,000.00	Intercompany Funding
Consultant	2620 White Rock Rd. Dallas TX 75214	9/4/2019	6,451.50	Professional Services
Siepe Software, LLC	5440 Harvest Hill Rd Suite 100, Dallas, TX 75230	9/5/2019	18,042.03	Professional Services
HIGHLAND CAPITAL MANAGEMENT, LP	300 Crescent Court, Suite 700 Dallas, TX 75201	9/5/2019	113,788.36	Employee Benefits
Pershing LLC	One Pershing Plaza Attn: IBD - 15th Floor Jersey City NJ 07399	9/5/2019	11,286.83	Investing
Charles Schwab	PO Box 1270 Tulsa, OK 74101-1270	9/5/2019	858,220.29	Employee Benefits
Charles Schwab	PO Box 1270 Tulsa, OK 74101-1270	9/5/2019	854,278.60	Employee Benefits
Dow Jones & Company, Inc.	WALL ST JRNL OR BARRONS PO Box 4137 New York NY 10261-4137	9/5/2019	16,621.23	Professional Services
CDW Direct	PO BOX 75723 CHICAGO IL 60675-5723	9/5/2019	3,374.19	Suppliers/Vendors
Intex Solutions, Inc.	Accounts Receivable 110 A St Needham MA 02494-2807	9/5/2019	35,200.00	Professional Services
Las Vegas Flamingo Holdco, LLC	Collections Account TEXAS	9/5/2019	46,536.83	Intercompany Funding
GRUBHUB for Work	PO Box 748570 Los Angeles CA 90074-8570	9/5/2019	15,518.67	Suppliers/Vendors
AT&T	PO BOX 5019 CAROL STREAM IL 60197	9/6/2019	3,573.58	Professional Services
TW Telecom Holdings, llc	PO Box 910182 Denver CO 80291-0182	9/9/2019	9,138.32	Professional Services
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	9/9/2019	142,884.07	Employee Benefits
Eagle Equity Advisors, LLC	300 Crescent Court, Suite 700 Dallas, TX 75201	9/11/2019	40,000.00	Intercompany Funding
Charles Schwab	PO Box 1270 Tulsa, OK 74101-1270	9/12/2019	37,839.05	Employee Benefits
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	9/12/2019	59,111.49	Employee Benefits
Loews Coronado Bay Resort	4000 Coronado Bay Road Coronado CA 92118	9/12/2019	77,340.18	Suppliers/Vendors
Harbor Yacht Clubs, LLC	1880 Harbor Island Drive San Diego CA 92101	9/12/2019	6,440.00	Suppliers/Vendors
NYSE MARKET, INC	Box #223695 Pittsburgh PA 15251-2695	9/13/2019	8,857.74	Professional Services
TRICOR BUSINESS OUTSOURCING	80 Robinson Rd, Singapore 068898	9/13/2019	35,221.80	Intercompany Funding
Markit North America Inc.	620 8th Ave 35th floor New York NY 10018	9/13/2019	91,676.00	Professional Services
CDW Direct	PO BOX 75723 CHICAGO IL 60675-5723	9/13/2019	7,387.23	Suppliers/Vendors
BDO USA, LLP	700 North Pearl Suite 2000 Dallas TX 75201	9/13/2019	8,700.00	Professional Services
ABM	PO Box 419860 Boston MA 02241-9860	9/13/2019	5,884.76	Suppliers/Vendors
Concur Technologies, Inc.	62157 Collections Center Drive Chicago IL 60693	9/13/2019	8,187.05	Professional Services
Willis of Texas, Inc.	PO Box 731739 Dallas TX 75373-1739	9/13/2019	5,754.18	Insurance
Reorg Research, Inc.	1140 Broadway Ste 201 New York NY 10001	9/13/2019	93,123.35	Professional Services
Sage Search Partners	3811 Turtle Creek Blvd Suite 850 Dallas TX 75219	9/13/2019	20,000.00	Professional Services
AT&T	PO BOX 5019 CAROL STREAM IL 60197	9/16/2019	927.16	Professional Services
DLA Piper LLP US	6225 Smith Avenue Baltimore MD 21209	9/16/2019	200,000.00	Professional Services
Lynn Pinker Cox & Hurst, L.L.P.	2100 Ross Ave Suite 2700 Dallas TX 75201	9/17/2019	185,576.00	Professional Services
Flexential Colorado Corp.	PO Box 732368 Dallas TX 75373-2368	9/17/2019	12,056.49	Professional Services
Canteen Vending Services	PO Box 417632 Boston MA 02241-7632	9/17/2019	327.61	Suppliers/Vendors
Platinum Parking	300 Crescent Court, Suite 700 Dallas, TX 75201	9/17/2019	15,210.80	Professional Services
AT&T MOBILITY	PO BOX 6463 CAROL STREAM IL 60197-6463	9/19/2019	1,769.17	Professional Services
ROWLETT HILL, LLP	25 HIGHLAND PARK VILLAGE STE 100-448 DALLAS TX 75205	9/19/2019	23,718.75	Professional Services
Affiliate Loan	300 Crescent Court, Suite 700 Dallas, TX 75201	9/19/2019	500,000.00	Affiliate Loan
Siepe Services, LLC	5440 Harvest Hill Road Suite 100 Dallas TX 75230	9/19/2019	185,063.83	Professional Services
Greyline Partners, LLC	P.O. Box 733976 Dallas TX 75373-3976	9/19/2019	11,250.00	Professional Services
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	9/20/2019	77,274.56	Employee Benefits
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	9/20/2019	67,658.40	Employee Benefits
Affiliate Loan	300 Crescent Court, Suite 700 Dallas, TX 75201	9/23/2019	1,000,000.00	Affiliate Loan
Attia Medical, PC	5820 Oberlin Dr. Suite 205 San Diego CA 92121	9/23/2019	12,500.00	Professional Services
DLA Piper LLP US	6225 Smith Avenue Baltimore MD 21209	9/23/2019	200,000.00	Professional Services
CDW Direct	PO BOX 75723 CHICAGO IL 60675-5723	9/24/2019	3,059.50	Suppliers/Vendors
HIGHLAND CREDIT OPPORTUNITIES FUND	300 Crescent Court, Suite 700 Dallas, TX 75201	9/25/2019	300,000.00	Intercompany Funding
Consultant	2620 White Rock Rd. Dallas TX 75214	9/25/2019	8,109.75	Professional Services
Cole Schotz	Court Plaza North 25 Main Street Hackensack NJ 07602-0800	9/25/2019	100,000.00	Professional Services
Affiliate Loan	300 Crescent Court, Suite 700 Dallas, TX 75201	9/25/2019	900,000.00	Affiliate Loan
S&P Global Market Intelligence	33356 Collection Center Drive Chicago IL 60693-0333	9/25/2019	368,894.61	Professional Services

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Trading Partner Name	Trading Partner Address	Payment Date	Payment Amount	Reason for Transfer
Arris Western Corp.	718 N Buckner #316 Dallas TX 75218	9/25/2019	1,325.29	Professional Services
Harbor Yacht Clubs, LLC	1880 Harbor Island Drive San Diego CA 92101	9/25/2019	538.75	Suppliers/Vendors
ICE Data Pricing & Reference Data, LLC	PO Box 98616 Chicago IL 60693	9/25/2019	8,819.61	Professional Services
Charles Schwab	PO Box 1270 Tulsa, OK 74101-1270	9/26/2019	35,354.55	Employee Benefits
Duff & Phelps, LLC	2397 Paysphere Circle Chicago IL 60674	9/30/2019	100,000.00	Professional Services
HIGHLAND CREDIT OPPORTUNITIES FUND	300 Crescent Court, Suite 700 Dallas, TX 75201	9/30/2019	200,000.00	Intercompany Funding
Frontier State Bank	5100 S I-35 Service Rd, Oklahoma City, OK 73129	9/30/2019	98,707.96	Secured Loan Payment
Arris Western Corp.	718 N Buckner #316 Dallas TX 75218	9/30/2019	11,000.00	Professional Services
Professional Speaker	Koa Kai, LLC PO Box 232307 Leucadia CA 92023	9/30/2019	15,000.00	Suppliers/Vendors
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	9/30/2019	105,000.00	Intercompany Funding
Attia Medical, PC	5820 Oberlin Dr. Suite 205 San Diego CA 92121	9/30/2019	12,500.00	Professional Services
DLA Piper LLP US	6225 Smith Avenue Baltimore MD 21209	9/30/2019	200,000.00	Professional Services
AT&T MOBILITY	PO BOX 6463 CAROL STREAM IL 60197-6463	10/1/2019	-	Professional Services
Employee	300 Crescent Court, Suite 700 Dallas, TX 75201	10/1/2019	13,059.43	Bonus
Crescent TC Investors LP	200 Crescent Ct Suite 250 Dallas TX 75201	10/1/2019	192,588.09	Rent Payment
Frontier State Bank	5100 S I-35 Service Rd, Oklahoma City, OK 73129	10/1/2019	128,793.00	Secured Loan Payment
Bloomberg Finance LP	PO Box 416604 Boston MA 02241-6604	10/2/2019	113,095.54	Professional Services
Consultant	300 Crescent Court, Suite 700 Dallas, TX 75201	10/2/2019	28,821.81	Professional Services
Pachulski Stang Ziehl & Jones LLP	10100 Santa Monica Blvd. 13th Floor Los Angeles CA 90067	10/2/2019	500,000.00	Professional Services
HIGHLAND CAPITAL MANAGEMENT, LP	300 Crescent Court, Suite 700 Dallas, TX 75201	10/3/2019	114,381.18	Employee Benefits
OKADA INSURANCE RABBI TRUST	300 Crescent Court, Suite 700 Dallas, TX 75201	10/3/2019	14,875.00	Insurance
AT&T	PO BOX 5019 CAROL STREAM IL 60197	10/3/2019	309.51	Professional Services
Employee	300 Crescent Court, Suite 700 Dallas, TX 75201	10/4/2019	113,104.52	Employee Reimbursement
Siepe Software, LLC	5440 Harvest Hill Rd Suite 100, Dallas, TX 75230	10/4/2019	18,042.03	Professional Services
Siepe Software, LLC	5440 Harvest Hill Rd Suite 100, Dallas, TX 75230	10/4/2019	18,042.03	Professional Services
TW Telecom Holdings, llc	PO Box 910182 Denver CO 80291-0182	10/4/2019	7,710.33	Professional Services
CDW Direct	PO BOX 75723 CHICAGO IL 60675-5723	10/4/2019	23,277.86	Suppliers/Vendors
CDW Direct	PO BOX 75723 CHICAGO IL 60675-5723	10/4/2019	23,788.47	Suppliers/Vendors
HIGHLAND CREDIT OPPORTUNITIES FUND	300 Crescent Court, Suite 700 Dallas, TX 75201	10/4/2019	500,000.00	Intercompany Funding
AT&T	PO Box 9005 Carol Stream IL 60197-9005	10/4/2019	2,845.06	Professional Services
AT&T	PO BOX 5019 CAROL STREAM IL 60197	10/4/2019	3,573.58	Professional Services
AT&T	PO BOX 5019 CAROL STREAM IL 60197	10/4/2019	146.78	Professional Services
Willis of Texas, Inc.	Dallas/Ft. Worth Division PO Box 730310 Dallas TX 75373-0310	10/4/2019	5,754.18	Insurance
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	10/4/2019	109,241.27	Employee Benefits
Houlihan Lokey	10250 Constellation Blvd, 5th Floor Attn: Accounts Receivable Los Angeles CA 90067-6802	10/4/2019	55,667.91	Professional Services
Ipreo Data Inc.	421 Fayetteville Street Suite 900 Raleigh NC 27601	10/4/2019	9,500.00	Professional Services
Siepe Services, LLC	5440 Harvest Hill Road Suite 100 Dallas TX 75230	10/4/2019	182,790.68	Professional Services
Hedgeye Risk Mgmt, LLC	1 High Ridge Park 3rd Floor Stamford CT 06905	10/4/2019	25,265.10	Professional Services
Spin-Off Advisors, LLC	1327 W. Washington Blvd Ste 4-G Chicago IL 60607	10/4/2019	15,000.00	Professional Services
GRUBHUB for Work	PO Box 748570 Los Angeles CA 90074-8570	10/4/2019	14,343.81	Suppliers/Vendors
Flexential Colorado Corp.	PO Box 732368 Dallas TX 75373-2368	10/4/2019	24,031.79	Professional Services
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	10/4/2019	75,000.00	Intercompany Funding
DLA Piper LLP US	6225 Smith Avenue Baltimore MD 21209	10/4/2019	200,000.00	Professional Services
Siepe Software, LLC	5440 Harvest Hill Rd Suite 100, Dallas, TX 75230	10/7/2019	18,042.03	Professional Services
Pricewaterhouse Coopers, LLP	PO BOX 952282 DALLAS TX 75395-2282	10/7/2019	24,000.00	Professional Services
LAFFER ASSOCIATES	103 Murphy Court NASHVILLE TN 37203	10/7/2019	28,188.37	Professional Services
MARKIT WSO CORPORATION	Three Lincoln Centre 5430 LBJ Frwy; Ste 800 DALLAS TX 75240	10/7/2019	27,213.92	Professional Services
Strategas Securities LLC	52 Vanderbilt Ave 8th Fl New York NY 10017	10/7/2019	27,195.87	Professional Services
Bloomberg Finance LP	PO Box 416604 Boston MA 02241-6604	10/7/2019	100,000.00	Professional Services
Intex Solutions, Inc.	Accounts Receivable 110 A St Needham MA 02494-2807	10/7/2019	35,200.00	Professional Services
BCA Research Inc	1002 Sherbrooke St. W Suite 1600 Montreal Quebec H3A 3L6	10/7/2019	18,294.21	Professional Services
Consultant	2620 White Rock Rd. Dallas TX 75214	10/7/2019	5,274.50	Professional Services
Employee	300 Crescent Court, Suite 700 Dallas, TX 75201	10/7/2019	43,910.97	Employee Reimbursement
Verity Group	PO Box 940361 Plano TX 75094-0361	10/7/2019	8,940.84	Suppliers/Vendors
Canteen Vending Services	PO Box 417632 Boston MA 02241-7632	10/7/2019	30,017.35	Suppliers/Vendors
ABM	PO Box 419860 Boston MA 02241-9860	10/7/2019	5,884.76	Suppliers/Vendors
Greenwood Office Outfitters	2951 Suffolk Drive Suite 640 Fort Worth TX 76133-1149	10/7/2019	4,628.62	Suppliers/Vendors
Houlihan Lokey	10250 Constellation Blvd, 5th Floor Attn: Accounts Receivable Los Angeles CA 90067-6802	10/7/2019	113,092.79	Professional Services
Houlihan Lokey	10250 Constellation Blvd, 5th Floor Attn: Accounts Receivable Los Angeles CA 90067-6802	10/7/2019	112,000.00	Professional Services
Deloitte Tax LLP	PO Box 844736 Dallas TX 75284-4736	10/7/2019	142,205.00	Professional Services
Deloitte Tax LLP	PO Box 844736 Dallas TX 75284-4736	10/7/2019	104,905.00	Professional Services
Siepe Services, LLC	5440 Harvest Hill Road Suite 100 Dallas TX 75230	10/7/2019	185,000.00	Professional Services
GRUBHUB for Work	PO Box 748570 Los Angeles CA 90074-8570	10/7/2019	5,556.50	Suppliers/Vendors
ValueScope, Inc.	1400 Thetford Ct. Southlake TX 76092	10/7/2019	25,000.00	Professional Services
Development Specialists, Inc.	333 South Grand Avenue Suite 4070 Los Angeles CA 90071-1544	10/7/2019	250,000.00	Professional Services
Bragalone Conroy PC	Chase Tower 2200 Ross Avenue Dallas TX 75201-7924	10/7/2019	10,000.00	Professional Services
Kurtzman Carson Consultants LLC	Dept CH 16639 Palatine IL 60055-6639	10/7/2019	50,000.00	Professional Services
Hunton Andrews Kurth, LLP	1445 Ross Avenue Suite 3700 Dallas TX 75202-2799	10/7/2019	156,996.86	Professional Services
Liberty Life Assurance Company of Boston - Group Benefits	PO Box 2658 Carol Stream IL 60132-2658	10/7/2019	15,928.25	Employee Benefits
ICE Data Pricing & Reference Data, LLC	PO Box 98616 Chicago IL 60693	10/7/2019	5,879.74	Professional Services
Refinitiv US LLC	3 Times Square New York NY 10036	10/7/2019	12,823.98	Professional Services
Deloitte Tax LLP	PO Box 844736 Dallas TX 75284-4736	10/8/2019	128,557.00	Professional Services
AT&T	PO BOX 5019 CAROL STREAM IL 60197	10/10/2019	3,573.58	Professional Services

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Trading Partner Name	Trading Partner Address	Payment Date	Payment Amount	Reason for Transfer
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	10/10/2019	161,497.04	Employee Benefits
Cole Schotz	Court Plaza North 25 Main Street Hackensack NJ 07602-0800	10/10/2019	34,894.42	Professional Services
Houlihan Lokey	10250 Constellation Blvd, 5th Floor Attn: Accounts Receivable Los Angeles CA 90067-6802	10/10/2019	1,092.79	Professional Services
Snell & Wilmer LLP	One Arizona Center 400 E. Van Buren, Suite 1900 Phoenix AZ 85004-2202	10/10/2019	19,119.65	Professional Services
DLA Piper LLP US	6225 Smith Avenue Baltimore MD 21209	10/10/2019	1,115,000.00	Professional Services
ASW Law Limited	Crawford House 50 Cedar Avenue Hamilton HM11	10/10/2019	10,845.00	Professional Services
Carey Olsen	PO Box 10008 Willow House Grand Cayman KY1-1001	10/10/2019	48,595.00	Professional Services
Canteen Vending Services	PO Box 417632 Boston MA 02241-7632	10/10/2019	8,656.51	Suppliers/Vendors
Platinum Parking	300 Crescent Court Level G1, LB#102 Dallas TX 75201	10/10/2019	33,007.19	Professional Services
Charles Schwab	PO Box 1270 Tulsa, OK 74101-1270	10/11/2019	34,454.43	Employee Benefits
Cole Schotz	Court Plaza North 25 Main Street, PO Box 800 Hackensack NJ 07602-0800	10/11/2019	25,000.00	Professional Services
Pershing LLC	One Pershing Plaza Attn: IBD - 15th Floor Jersey City NJ 07399	10/15/2019	17,745.66	Investing
CBIZ Valuation Group, Inc.	3030 LBJ Freeway, Ste 1650 Dallas TX 75234	10/15/2019	12,400.00	Professional Services
Status Labs.com	151 South 1st Suite 100 Austin TX 78704	10/15/2019	18,000.00	Professional Services
Discovery Benefits [2]	4321 20th Ave. S. Fargo, ND 58103	Various	36,473.83	FSA Transfers
Expense Reimbursements [3]	300 Crescent Court, Suite 700 Dallas, TX 75201	Various	557,471.14	Expense reimbursements
Total			\$ 23,255,006.86	

[1] Does not include activity in Jefferies Prime Broker account.
[2] Discovery benefits are the daily FSA amounts paid for healthcare related charges.
[3] Expense reimbursements are not tracked in The Debtor's accounting software at detail requested

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Exhibit C - SOFA #4

<u>Trading Partner</u>	<u>Trading Partner Address</u>	<u>Payment Date</u>	<u>Payment Amount</u>
Acis Capital Management	Attn: Rakhee V. Patel, Winstead PC 500 Winstead Building Dallas TX 75201	8/27/2019	12,249.65
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	10/26/2018	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	11/1/2018	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	12/3/2018	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	1/2/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	1/25/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	2/1/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	3/1/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	4/3/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	5/1/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	6/3/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	7/1/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	8/1/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	9/3/2019	10,000.00
Dondero Insurance Rabbi Trust	300 Crescent Court, Suite 700 Dallas, TX 75201	1/2/2019	36,580.00
Dugaboy Investment Trust	300 Crescent Court, Suite 700 Dallas, TX 75201	12/19/2018	9,246.96
Dugaboy Investment Trust	300 Crescent Court, Suite 700 Dallas, TX 75201	3/28/2019	6,960.38
Eagle Equity Advisors, LLC	300 Crescent Court, Suite 700 Dallas, TX 75201	8/13/2019	155,000.00
Eagle Equity Advisors, LLC	300 Crescent Court, Suite 700 Dallas, TX 75201	8/29/2019	75,000.00
Eagle Equity Advisors, LLC	300 Crescent Court, Suite 700 Dallas, TX 75201	9/11/2019	40,000.00
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/31/2018	41.76
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	11/15/2018	70.73
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	11/30/2018	13.96
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	12/14/2018	50.74
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	12/31/2018	26.84
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	1/15/2019	56.68
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	1/31/2019	58.06
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	2/15/2019	183.46
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	2/28/2019	18.89
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/15/2019	28.88
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/29/2019	105.11
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/15/2019	23.70
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/30/2019	34.79
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/15/2019	110.76
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/31/2019	31.76
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/14/2019	43.23
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/28/2019	20.56
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/15/2019	87.13
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/31/2019	38.96
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	8/15/2019	19.48
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	8/30/2019	45.08
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	9/13/2019	66.22
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	9/30/2019	10.82
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/15/2019	115.75
Governance Re Ltd	Wellesley House; 2nd Floor 90 Pitts Bay Road Pembroke HM 08	6/14/2019	300,000.00
HCRE Partners, LLC	300 Crescent Court, Suite 700 Dallas, TX 75201	9/25/2019	900,000.00
Highland Capital Management Fund Advisors	300 Crescent Court, Suite 700 Dallas, TX 75201	5/2/2019	2,400,000.00
Highland Capital Management Fund Advisors	300 Crescent Court, Suite 700 Dallas, TX 75201	5/3/2019	5,000,000.00
Highland Capital Management Korea	300 Crescent Court, Suite 700 Dallas, TX 75201	12/6/2018	1,200,000.00
Highland Capital Management Korea	300 Crescent Court, Suite 700 Dallas, TX 75201	4/17/2019	1,100,000.00
Highland Capital Management Korea	300 Crescent Court, Suite 700 Dallas, TX 75201	7/8/2019	630,000.00
Highland Capital Management Korea	300 Crescent Court, Suite 700 Dallas, TX 75201	7/19/2019	630,000.00
Highland Capital Management Latin America	300 Crescent Court, Suite 700 Dallas, TX 75201	5/3/2019	1,350,000.00
Highland Capital Management Latin America	300 Crescent Court, Suite 700 Dallas, TX 75201	6/28/2019	10,000.00

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<u>Trading Partner</u>	<u>Trading Partner Address</u>	<u>Payment Date</u>	<u>Payment Amount</u>
Highland Capital Management Services	300 Crescent Court, Suite 700 Dallas, TX 75201	5/29/2019	400,000.00
Highland Capital Management Services	300 Crescent Court, Suite 700 Dallas, TX 75201	6/26/2019	150,000.00
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	10/26/2018	65,000.00
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	10/30/2018	5,864.10
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	11/13/2018	3,942.72
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	11/28/2018	3,848.70
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	12/12/2018	3,744.31
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	12/27/2018	4,176.47
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	1/11/2019	3,954.93
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	1/29/2019	4,703.71
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	2/5/2019	50,000.00
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	3/5/2019	150,000.00
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	3/26/2019	50,000.00
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	6/11/2019	55,000.00
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	7/1/2019	25,000.00
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	8/26/2019	150,000.00
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	2/27/2019	100,000.00
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	3/29/2019	25,000.00
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	4/3/2019	15,000.00
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	4/15/2019	50,000.00
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	6/28/2019	90,000.00
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	8/29/2019	55,000.00
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	9/30/2019	105,000.00
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	10/4/2019	75,000.00
Highland Select Equity Fund	300 Crescent Court, Suite 700 Dallas, TX 75201	12/5/2018	171,000.00
Highland Select Equity Fund	300 Crescent Court, Suite 700 Dallas, TX 75201	4/18/2019	3,000,000.00
Highland Select Equity Fund	300 Crescent Court, Suite 700 Dallas, TX 75201	5/2/2019	100,000.00
Highland Select Equity Fund	300 Crescent Court, Suite 700 Dallas, TX 75201	5/14/2019	255,000.00
Highland Select Equity Fund	300 Crescent Court, Suite 700 Dallas, TX 75201	5/22/2019	1,500,000.00
Highland Select Equity Fund	300 Crescent Court, Suite 700 Dallas, TX 75201	5/30/2019	350,000.00
Hunter Mountain Investment Trust	300 Crescent Court, Suite 700 Dallas, TX 75201	12/19/2018	4,930,722.50
Hunter Mountain Investment Trust	300 Crescent Court, Suite 700 Dallas, TX 75201	3/28/2019	3,711,456.47
James Dondero	300 Crescent Court, Suite 700 Dallas, TX 75201	3/28/2019	3,750,000.00
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/31/2018	8,986.25
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	11/15/2018	65,078.25
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	12/14/2018	115,481.36
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	12/31/2018	548.19
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	1/15/2019	96,786.37
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	1/31/2019	38,628.04
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	2/15/2019	42,434.77
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	2/28/2019	19,062.59
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/15/2019	50,771.13
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/29/2019	21,934.60
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/15/2019	60,190.72
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/30/2019	7,164.24
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/15/2019	89,256.54
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/31/2019	38,804.42
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/14/2019	82,710.42
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/28/2019	7,604.98
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/15/2019	47,005.97
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/31/2019	748.07
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	8/15/2019	85,058.51
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	8/30/2019	12,713.97
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	9/13/2019	56,762.57

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<u>Trading Partner</u>	<u>Trading Partner Address</u>	<u>Payment Date</u>	<u>Payment Amount</u>
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	9/30/2019	24,497.96
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/15/2019	32,977.48
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/31/2018	1,341.26
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	11/15/2018	164.01
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	11/30/2018	61.54
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	12/31/2018	2,378.81
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	1/31/2019	285.54
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	2/28/2019	876.87
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/15/2019	267.99
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/29/2019	112.22
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/30/2019	160.50
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/15/2019	144.02
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/14/2019	688.48
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/28/2019	48.54
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/15/2019	74.95
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/31/2019	153.81
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	8/30/2019	217.72
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	9/30/2019	3,615.11
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/15/2019	5,644.08
Maples & Calder	Ugland House Po Box 309Gt; S Church St George Town Grand Cayman	12/7/2018	6,780.65
Maples & Calder	Ugland House Po Box 309Gt; S Church St George Town Grand Cayman	12/12/2018	17,215.19
Maples & Calder	Ugland House Po Box 309Gt; S Church St George Town Grand Cayman	1/4/2019	95,798.38
Maples & Calder	Ugland House Po Box 309Gt; S Church St George Town Grand Cayman	1/10/2019	2,600.00
Maples & Calder	Ugland House Po Box 309Gt; S Church St George Town Grand Cayman	3/7/2019	2,453.66
Maples & Calder	Ugland House Po Box 309Gt; S Church St George Town Grand Cayman	9/16/2019	5,218.40
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,600.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,500.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,500.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,600.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,600.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,500.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,500.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,500.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,500.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,500.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	8,876.22

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<u>Trading Partner</u>	<u>Trading Partner Address</u>	<u>Payment Date</u>	<u>Payment Amount</u>
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	8,876.22
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/01	1,300.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/04	3,450.68
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/04	3,450.68
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/05	1,777.77
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/05	1,777.77
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/05	1,777.77
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/05	1,777.77
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/05	1,777.77
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/05	1,777.77
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/31/2018	68.12
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	12/31/2018	2,793.63
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	1/15/2019	28,862.62
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	2/15/2019	1,174.32
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/15/2019	740.40
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/29/2019	10,809.37
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/15/2019	4,485.01
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/15/2019	3,584.31
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/14/2019	6,121.00
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/15/2019	2,008.15
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	8/15/2019	139.27
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	8/30/2019	675.80
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	9/13/2019	10,961.53
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/15/2019	7,312.69
NexPoint Advisors, LP	300 Crescent Court, Suite 700 Dallas, TX 75201	9/19/2019	500,000.00
NexPoint Advisors, LP	300 Crescent Court, Suite 700 Dallas, TX 75201	9/23/2019	1,000,000.00
Okada Insurance Rabbi Trust	300 Crescent Court, Suite 700 Dallas, TX 75201	10/3/2019	14,875.00
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	11/15/2018	1,295.64
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	12/31/2018	5,149.90
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	1/15/2019	59.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	2/15/2019	102.32
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/29/2019	59.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/30/2019	59.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/15/2019	364.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/28/2019	59.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/15/2019	59.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	8/30/2019	205,787.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	9/30/2019	59.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/15/2019	59.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/15/2019	113,104.52
Strand Advisors	300 Crescent Court, Suite 700 Dallas, TX 75201	12/19/2018	12,423.44
Strand Advisors	300 Crescent Court, Suite 700 Dallas, TX 75201	3/28/2019	9,351.38
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/31/2018	419.21
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	12/14/2018	5,024.00
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	1/31/2019	355.30
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/15/2019	529.77
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/30/2019	4,185.33
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/15/2019	589.52
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/31/2019	480.00
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/28/2019	1,591.54

Highland Capital Management LP
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<u>Trading Partner</u>	<u>Trading Partner Address</u>	<u>Payment Date</u>	<u>Payment Amount</u>
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/15/2019	125.00
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	9/30/2019	28.00
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/15/2019	2,232.89
Total			36,608,252.91

Refer to SOFA 30 and Exhibit G for other transfers.

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit D - SOFA 7

Case Title	Case Number	Nature of Case	Court Name	Court Address	Status of case
Duff & Phelps, LLC v. Highland Capital Management, L.P. Index No. 653813/2019		Claim for breach of contract and unjust enrichment for failure to pay pursuant to a Letter of Engagement and accompanying Terms and Conditions.	Supreme Court of the State of New York, County of New York	60 Centre St, New York, NY 10007	Concluded
Hamilton Partners, L.P. v. Highland Capital Management, L.P. and Joseph Furlong	Cause No. 6547	Allegedly improper restructuring of American Home Patient	Court of Chancery of the State of Delaware	34 The Circle Georgetown, DE 19947	Concluded
In re: Acis Capital Management, L.P. (Case No. 18-30264-SGJ-11), Acis Capital Management GP, LLC (Case No. 18-30265-SGJ-11) as Debtors. Robin Phelan, Chapter 11 Trustee v. Highland Capital Management, L.P., Highland CLO Funding, Ltd. f/k/a Acis Loan Funding, Ltd., CLO Holdco, Ltd., Neutra, Ltd., Acis CLO 2014-3 Ltd., Acis CLO 2014-4 Ltd., Acis CLO 2014-5 Ltd., Acis CLO 2015-6 Ltd., Acis CLO 2014-3 LLC, Acis CLO 2014-4 LLC, Acis CLO 2014-5 LLC, and Acis CLO 2015-6 LLC	Case No. 18-03212-SGJ	Chapter 11 Trustee, on behalf of Debtors, claimed violation of TRO, preliminary injunction, and fraudulent conveyance.	United State Bankruptcy Court for the Northern District of Texas, Dallas Division	George Mahon Federal Building 1205 Texas Ave., Rm 306 Lubbock, TX 79401-4002	Pending
McKool Smith P.C. vs. Highland Capital Management, L.P. JAMS No.: 1310024517		Claim for breach of contract pursuant to Crusader Retention Agreement, Terry Retention Agreement, UBS Retention Agreement, and payment plan.	N/A	N/A	Pending
NWCC, LLC v. Highland CLO Management, LLC; Highland Capital Management, L.P.; Acis CLO 2014-3 Ltd.; Highland CLO 2014-3R Ltd.; Highland CLO 2014-3R LLC; Highland HCF Advisor, Ltd., as Trustee for Highland CLO Trust; Highland CLO Management Holdings, L.P.; Highland CLO Management GP, LLC; and Highland HCF Advisor, Ltd.	Case No. 654195/2018	Claim for breach of contract for failure to pay pursuant to Master Repurchase Agreement.	Supreme Court of the State of New York, County of New York	60 Centre St, New York, NY 10007	Pending
Patrick Daugherty v. Highland Capital Management, L.P., Highland Employee Retention Assets, LLC, Highland ERA Management, LLC, and James Dondoro	No. 2017-0488-SG	Claim for collection of judgment against Highland Employee Retention Assets, LLC ("HERA") and allegation of improper transfer of assets from HERA to other Defendants	Court of Chancery of the State of Delaware	34 The Circle Georgetown, DE 19947	Pending
Redeemer Committee of the Highland Crusader Fund (acting through its members, (1) Grosvenor Capital Management, L.P., (2) FRM Investment Management Limited, (3) Concord Management, LLC, (4) Baylor University, (5) FIX Asset Management, (6) The United States Army Air Force Exchange Services) vs. Highland Capital Management, L.P.	Cause 2019 No. 332	Motion to enforce Crusader Arbitration Award	Supreme Court of Bermuda	2nd floor, Government Administration Building 30 Parliament Street Hamilton HM12 Bermuda	Pending
Redeemer Committee of the Highland Crusader Fund (acting through its members, (1) Grosvenor Capital Management, L.P., (2) FRM Investment Management Limited, (3) Concord Management, LLC, (4) Baylor University, (5) FIX Asset Management, (6) The United States Army Air Force Exchange Services) vs. Highland Capital Management, L.P.	Cause 153 of 2019	Motion to enforce Crusader Arbitration Award	Grant Court of the Cayman Islands Financial Services Division	P.O. Box 495 Grand Cayman KY1-1106 Cayman Islands	Pending
Redeemer Committee of the Highland Crusader Fund v. Highland Capital Management, L.P.	No. 01-16-002-6927	Injunctive relief and damages sought related to wind down of legacy hedge fund from the 2008 financial crisis.	N/A	N/A	Concluded
Redeemer Committee of the Highland Crusader Fund v. Highland Capital Management, L.P.	No. 12533-VCG	Injunctive relief and declaratory judgment related to wind down of legacy hedge fund from the 2008 financial crisis.	Court of Chancery of the State of Delaware	34 The Circle Georgetown, DE 19947	Pending
UBS Securities LLC and UBS AG, London Branch v. Highland Capital Management, L.P., Highland Special Opportunities Holding Company, Highland CDO Opportunity Master Fund, L.P. Highland Financial Partners, L.P., Highland Credit Strategies Fund, Highland Crusader Offshore Partners, L.P., Highland Credit Opportunities CDO, L.P. and Strand Advisors, Inc.	Case No. 650097/2009	Plaintiff alleges that HCMLP engaged in fraudulent transfers and breached its duty of good faith in fair dealing in managing the obligations of its funds.	Supreme Court of the State of New York, County of New York	60 Centre St, New York, NY 10007	Pending
Highland Capital Management, L.P. v. Joshua Terry	Case No. DC-16-11396	Employee Terry was terminated for cause. Highland filed suit for return of Highland's confidential information and other counterclaims. Terry has filed counterclaims for conversion and defamation.	162nd District Court of Dallas County, Texas	00 Commerce Street, 7th Floor New Tower, Dallas, TX 75202	Pending

Highland Capital Management LP
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Exhibit E - SOFA #9

Vendor	Amount	Expense Type	Date
B&H Photo	\$ 7,000.00	Business Gifts	Feb 22, 2019
Competitive Cyclist	5,000.00	Business Gifts	Feb 22, 2019
REI	3,009.95	Business Gifts	Feb 22, 2019
The Family Place	4,500.00	Business Gifts	Jan 11, 2019
Neiman Marcus	10,000.00	Business Gifts	Jan 29, 2019
Nordstrom	9,000.00	Business Gifts	Jan 29, 2019
Neiman Marcus	2,800.00	Business Gifts	Aug 10, 2018
Barney's New York	3,015.00	Business Gifts	Dec 27, 2017
Etro Store	1,710.35	Business Gifts	Dec 27, 2017
Sutterfly	1,627.64	Business Gifts	Jun 26, 2019
B&H Video	5,015.00	Business Gifts	Oct 25, 2017
Competitive Cyclist	5,000.00	Business Gifts	Oct 25, 2017
Nordstrom	5,000.00	Business Gifts	Oct 25, 2017
REI	5,000.00	Business Gifts	Oct 25, 2017
JD	5,000.00	Business Gifts	Jan 29, 2019
AMEXGIFTCARD.COM-BOLATLANTA GA XXXXXXXX XXX-XXX-86	7,508.95	Business Gifts	Dec 12, 2018
Dallas Childrens Advocacy	17,500.00	Charitable Contributions	Jan 11, 2019
Political Contribution	20,000.00	Charitable Contributions	May 13, 2019
Political Contribution	30,000.00	Charitable Contributions	May 29, 2019
NORTHPARK CENTER	1,230.00	Gift/Awards	Apr 26, 2019
Kroger	1,483.30	Gift/Awards	Apr 26, 2018
Total Wine	1,125.76	Gift/Awards	Feb 13, 2018
Costco	2,168.86	Gift/Awards	Feb 13, 2019
Apple	4,000.00	Gift/Awards	Feb 26, 2018
B&H Photo	3,000.00	Gift/Awards	Feb 26, 2018
Competitive Cyclist	5,000.00	Gift/Awards	Feb 26, 2018
Nordstrom	1,350.00	Gift/Awards	Feb 26, 2018
Nordstrom	4,650.00	Gift/Awards	Feb 26, 2018
Nordstrom	1,250.00	Gift/Awards	Feb 26, 2018
Nordstrom	3,750.00	Gift/Awards	Mar 13, 2019
Nordstrom	7,010.00	Gift/Awards	Mar 13, 2019
REI	4,009.95	Gift/Awards	Mar 13, 2019
Neiman Marcus	2,075.00	Gift/Awards	Mar 27, 2018
AMAZON.COM*MB5OG1ZC1AMZN.COM/BI 1T5DTP0V6I MERCHA	1,000.00	Gift/Awards	Feb 13, 2019
AMERICAN AIRLINES XXXX-XXX-XXX XXX0103 AA.COM	1,000.00	Gift/Awards	Feb 13, 2019
BABY.COM EGIFT CRD XXX-XXX-1977 9XXX9375PRC GIFT C	1,000.00	Gift/Awards	Feb 13, 2019
WALMART.COM XXX-XXX-6546 AR WMZVYLNO0YU RETAIL	1,000.00	Gift/Awards	Feb 13, 2019
AMAZON.COM*M01N33JX2AMZN.COM/BI 43WY9S9CUC8 MERCHA	1,000.00	Gift/Awards	Dec 12, 2018
AMAZON.COM*MX1474TL1AMZN.COM/BI 594WNOFOQ54 MERCHA	1,000.00	Gift/Awards	Dec 12, 2018
AMEXGIFTCARD.COM-BOLATLANTA GA XXXXXXXX XXX-XXX-86	68,280.95	Gift/Awards	Dec 12, 2018
WLLMS-SONMA CSTR GFTXXX-XXX-197 9XXX3699QOK GIFT C	1,000.00	Gift/Awards	Dec 12, 2018
AAA INNOVATIONS AAA NORWOOD NJ XXXXXX8353 NON-DUR	4,558.75	Gift/Awards	Jan 11, 2019
AMEXGIFTCARD.COM-BOLATLANTA GA XXXXXXXX XXX-XXX-86	3,508.95	Gift/Awards	Jan 11, 2019
HOTELS.COM GIFT CARDXXX-XXX-197 9XXX8780BOK GIFT C	1,000.00	Gift/Awards	Jan 11, 2019
WLLMS-SONMA CSTR GFTXXX-XXX-197 9XXX6040GOK GIFT C	1,000.00	Gift/Awards	Jan 11, 2019
AMEX HILTON GIFT CARXXX-XXX-058 XXXX4162 BOL X0285	5,008.95	Gift/Awards	Feb 13, 2018
WLLMS-SONMA CSTR GFTXXX-XXX-197 4XXX2954P90 GIFT C	1,000.00	Gift/Awards	Nov 10, 2017
CS_*BABIESRUSGIFTCARXXX-XXX-197 4XXX6083G9J GIFT C	1,000.00	Gift/Awards	Dec 13, 2017
Four Seasons 8XX7828WILMINGTON XXXXXXXXXX XXXXXX3	5,014.19	Gift/Awards	Dec 13, 2017
RITZ CARLTON GIFT CAMIDVALE UT XXXXXXXXXX XXX-XXX-8	1,001.00	Gift/Awards	Dec 13, 2017
AMAZON.COM AMZN.COM/BILL WA 4HQ4J0AKNMQ MERCHANDIS	1,000.00	Gift/Awards	Jan 10, 2018
AMEX GIFT CARDS XXX-XXX-0582 NY OPWBXXX0386BOL XX2	7,008.95	Gift/Awards	Mar 13, 2018
Four Seasons 8XX7828WILMINGTON XXXXXXXXXX XXXXXX3	1,014.93	Gift/Awards	Mar 13, 2018

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Vendor	Amount	Expense Type	Date
AMEX GIFT CARDS XXX-XXX-0582 NY OPWBXXX3116BOL XX2	3,520.80	Gift/Awards	Apr 11, 2018
Four Seasons 8XX7828WILMINGTON XXXXXXXXXXX XXXXXX3	1,014.93	Gift/Awards	Apr 11, 2018
MARRIOTT GIFT CARDS MIDVALE UT XXXXXXXX XXX-XXX-4	5,010.95	Gift/Awards	May 10, 2018
AMAZON.COM AMZN.COM/BILL WA 16B3JYYTOHX MERCHANDIS	1,000.00	Gift/Awards	Jun 12, 2018
Four Seasons 8XX7828WILMINGTON XXXXXXXXXXX XXXXXX3	1,014.93	Gift/Awards	Jun 12, 2018
Four Seasons 8XX7828WILMINGTON XXXXXXXXXXX XXXXXX3	5,014.93	Gift/Awards	Jun 12, 2018
Four Seasons 8XX7828WILMINGTON XXXXXXXXXXX XXXXXX3	1,000.00	Gift/Awards	Jun 12, 2018
HOTELS.COM GIFT CARDXXX-XXX-197 4XXX5955KHG GIFT C	1,000.00	Gift/Awards	Jun 12, 2018
AMAZON.COM AMZN.COM/BILL WA 4C5DKHDW6TK MERCHANDIS	1,000.00	Gift/Awards	Jul 11, 2018
AMAZON.COM AMZN.COM/BILL WA 5AK74J5T9LC MERCHANDIS	1,000.00	Gift/Awards	Jul 11, 2018
HOTELS.COM GIFT CARDXXX-XXX-197 4XXX5284CIM GIFT C	1,000.00	Gift/Awards	Jul 11, 2018
MARRIOTT GIFT CARDS MIDVALE UT XXXXXXXX XXX-XXX-4	1,001.00	Gift/Awards	Jul 11, 2018
WLLMS-SONMA CSTR GFTXXX-XXX-197 4XXX6255NHS GIFT C	1,000.00	Gift/Awards	Jul 11, 2018
AMAZON.COM AMZN.COM/BILL WA 3NRIPESL5H2 MERCHANDIS	1,000.00	Gift/Awards	Aug 10, 2018
AMEXGIFTCARD.COM-BOLATLANTA GA XXXXXXXX XXX-XXX-86	3,522.85	Gift/Awards	Aug 10, 2018
HOTELS.COM GIFT CARDXXX-XXX-197 4XXX8611J4 GIFT C	1,000.00	Gift/Awards	Aug 10, 2018
HOTELS.COM GIFT CARDXXX-XXX-197 8XXX5959YIW GIFT C	1,000.00	Gift/Awards	Aug 10, 2018
MARRIOTT GIFT CARDS MIDVALE UT XXXXXXXX XXX-XXX-4	5,001.00	Gift/Awards	Aug 10, 2018
AMAZON.COM*MT7OW87B1AMZN.COM/BI 1XJ571A2WYA MERCHA	1,000.00	Gift/Awards	Nov 13, 2018
WLLMS-SONMA CSTR GFTXXX-XXX-197 9XXX5657XMX GIFT C	1,000.00	Gift/Awards	Nov 13, 2018
CS *HOTELS.COM GC XXX-XXX-1977 4XXX3604JRG GIFT CA	1,000.00	Gift/Awards	Mar 13, 2019
HILTON GC XXX XXX-XXXX-XXX-XXX XX0847 GIFTCARDS F	1,008.95	Gift/Awards	Mar 13, 2019
HOTELS.COM GIFT CARDXXX-XXX-197 4XXX1517JRH GIFT C	1,000.00	Gift/Awards	Mar 13, 2019
AMAZON.COM*MW2NP75Y2AMZN.COM/BI 1ZRLAH1KV0Q MERCHA	1,000.00	Gift/Awards	May 13, 2019
AMEXGIFTCARD.COM-BOLATLANTA GA XXXXXXXX XXX-XXX-86	3,515.95	Gift/Awards	May 13, 2019
AMEXGIFTCARD.COM-BOLATLANTA GA XXXXXXXX XXX-XXX-86	3,520.85	Gift/Awards	Jun 12, 2019
AMEXGIFTCARD.COM-BOLATLANTA GA XXXXXXXX XXX-XXX-86	3,515.95	Gift/Awards	Jul 11, 2019
ANSE CHASTANET - RESSOUFRIERE LC XXXXXXXXXXX XXX-XX	5,000.00	Gift/Awards	Sep 11, 2018
Four Seasons 8XX7828WILMINGTON XXXXXXXXXXX XXXXXX3	5,014.93	Gift/Awards	Sep 11, 2018
MARRIOTT GIFT CARDS MIDVALE UT XXXXXXXX XXX-XXX-4	1,010.95	Gift/Awards	Sep 11, 2018
RITZ CARLTON GIFT CAMIDVALE UT XXXXXXXX XXX-XXX-8	1,010.95	Gift/Awards	Sep 11, 2018
WLLMS-SONMA CSTR GFTXXX-XXX-197 4XXX6218KG GIFT C	1,000.00	Gift/Awards	Sep 11, 2018
AMAZON.COM*MT5FG6LG0AMZN.COM/BI 2CWA16B0JP6 MERCHA	2,000.00	Gift/Awards	Oct 11, 2018
AMEXGIFTCARD.COM-BOLATLANTA GA XXXXXXXX XXX-XXX-86	7,529.80	Gift/Awards	Oct 11, 2018
MARRIOTT GIFT CARDS MIDVALE UT XXXXXXXX XXX-XXX-4	5,000.00	Gift/Awards	Oct 4, 2019
Hotels.com	1,000.00	Gift/Awards	Jul 11, 2019
Buy Buy Baby	1,000.00	Gift/Awards	Aug 13, 2019
William Sonoma	1,000.00	Gift/Awards	Aug 13, 2019
Amazon.com	1,000.00	Gift/Awards	Sep 10, 2019
AMAZON.COM*MA02T1UW2AMZN.COM/BI 59I475TIIR3 MERCHA	1,000.00	Gift/Awards	Sep 10, 2019
CS *BUYBUYBABY EGFTFCXX-XXX-197 4XXX9435NZ1 GIFT C	1,000.00	Gift/Awards	Sep 10, 2019
CS *HOTELS.COM GC XXX-XXX-1977 4XXX4055UYZ GIFT CA	1,000.00	Gift/Awards	Sep 10, 2019
MARRIOTT GIFT CARDS MIDVALE UT XXXXXXXX XXX-XXX-4	1,000.00	Gift/Awards	Sep 10, 2019
MARRIOTT GIFT CARDS MIDVALE UT XXXXXXXX XXX-XXX-4	1,000.00	Gift/Awards	Sep 10, 2019
CS *HOTELS.COM GC XXX-XXX-1977 9XXX0073VU5 GIFT CA	2,000.00	Gift/Awards	May 13, 2019
CS *HOTELS.COM GC XXX-XXX-1977 9XXX9190AU5 GIFT CA	1,000.00	Gift/Awards	May 13, 2019
CS *HOTELS.COM GC XXX-XXX-1977 9XXX7723U5 GIFT CA	2,000.00	Gift/Awards	May 13, 2019
CS *HOTELS.COM GC XXX-XXX-1977 4XXX2756TI GIFT CA	1,000.00	Gift/Awards	Apr 11, 2019
Beard Supply	1,623.75	Gift/Awards	Jan 10, 2018
Patagonia	2,685.71	Gift/Awards	Jan 26, 2018
Political Contribution	25,000.00	Gift/Charity	Jun 30, 2018
Political Contribution	25,000.00	Gift/Charity	Jun 30, 2019
Total	\$ 445,725.61		

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Exhibit F - SOFA 25

Name	Relationship	Address	EIN	Description of Business	Date of Creation	Date of Termination (if applicable)
Aberdeen Loan Funding, Ltd.	IMA	Intertrust Corporate Services (Cayman) Limited , 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	N/A	CLO Fund	12/14/2006	
Brentwood CLO, Ltd.	IMA	MaplesFS - PO Box 1093, Grand Cayman, KY1-1102, Cayman Islands	98-0524481	CLO Fund	5/21/2006	
Bristol Bay Funding Ltd.	IMA	Intertrust Corporate Services (Cayman) Limited , 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0418113	CLO Fund	11/18/2003	
Eastland CLO, Ltd.	IMA	Elian Fiduciary Services (Cayman) Limited - 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0550088	CLO Fund	3/31/2006	
Gleneagles CLO, Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	N/A	CLO Fund	2/25/2005	
Grayson CLO, Ltd.	IMA	Elian Fiduciary Services (Cayman) Limited - 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0522566	CLO Fund	2/7/2006	
Greenbriar CLO, Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	N/A	CLO Fund	10/24/2007	
Highland CDO Holding Company	IMA	Intertrust Corporate Services (Cayman) Limited , 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0527935	HFP sub	1/24/2006	
Highland CDO Opportunity Fund, L.P.	IMA	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-3899941	Hedge fund	11/3/2005	Terminated
Highland CDO Opportunity Fund, Ltd.	IMA	MQ Services Ltd, Victoria House, 31 Victoria Street, Hamilton HM10, Bermuda	N/A	Hedge fund	5/8/2002	Terminated
Highland CDO Opportunity Master Fund, L.P.	IMA	MQ Services Ltd, Victoria House, 31 Victoria Street, Hamilton HM10, Bermuda	98-0520689	Hedge fund	10/31/2005	Terminated
Highland Credit Opportunities CDO, Ltd.	IMA	Intertrust Corporate Services (Cayman) Limited , 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0512429	Hedge fund	11/1/2005	
Highland Credit Opportunities Japanese Feeder Sub-Trust	IMA	Intertrust Corporate Services (Cayman) Limited , 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	N/A	Hedge fund	8/22/2007	
Highland Credit Strategies Fund, L.P.	IMA	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	86-1147211	Hedge fund	8/2/2005	
Highland Credit Strategies Fund, Ltd.	IMA	MQ Services Ltd, Victoria House, 31 Victoria Street, Hamilton HM10, Bermuda	98-0466202	Hedge fund	8/8/2005	
Highland Credit Strategies Master Fund, L.P.	IMA	MQ Services Ltd, Victoria House, 31 Victoria Street, Hamilton HM10, Bermuda	98-0466203	Hedge fund	8/19/2005	
Highland Dynamic Income Fund, L.P. (fka Highland Capital Loan Fund, L.P.)	IMA	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	46-2123634	Hedge fund	2/25/2013	
Highland Dynamic Income Fund, Ltd. (fka Highland Loan Fund, Ltd.)	IMA	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	N/A	Hedge fund	2/26/2013	
Highland Dynamic Income Master Fund, L.P. (fka Highland Loan Master Fund, L.P.)	IMA	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1169838	Hedge fund	2/26/2013	
Highland Financial Corp.	IMA - terminated	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-4392555	HFP sub	2/28/2006	
Highland Flexible Income UCITS Fund	IMA	23 St. Stephen's Green, Dublin 2, Ireland	N/A	Separate account	6/7/2018	
Highland Legacy Limited	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	N/A	CLO Fund	7/6/1999	
Highland Loan Funding V, Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	N/A	CLO Fund	2/5/2001	
Highland Multi Strategy Credit Fund, L.P. (fka Highland Credit Opportunities Fund, L.P., fka Highland Credit Opportunities CDO, L.P.)	IMA	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-3874256	Hedge fund	12/1/2005	
Highland Multi Strategy Credit Fund, Ltd. (fka Highland Credit Opportunities Fund, Ltd.)	IMA	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-0587370	Hedge fund	12/29/2005	
Highland Park CDO 1, Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	98-0515982	CLO Fund	7/12/2006	
Highland Prometheus Feeder Fund I, L.P.	IMA	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1334547	Hedge fund	11/7/2016	
Highland Prometheus Feeder Fund II, L.P.	IMA	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1353013	Hedge fund	2/17/2017	
Highland Prometheus Master Fund, L.P.	IMA	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1334763	Hedge fund	11/7/2016	
Highland Restoration Capital Partners Master, L.P.	IMA	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-1458205	Private equity fund	11/14/2007	
Highland Restoration Capital Partners Offshore, L.P.	IMA	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-0558962	Private equity fund	11/13/2007	
Highland Restoration Capital Partners, L.P.	IMA	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-1456033	Private equity fund	11/14/2007	
Highland Select Equity Fund, L.P.	IMA	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	75-2970177	Hedge fund	12/5/2001	
Highland Select Equity Master Fund, L.P.	IMA	MQ Services Ltd, Victoria House, 31 Victoria Street, Hamilton HM10, Bermuda	98-0520466	Hedge fund	4/12/2007	
Highland Special Opportunities Holding Company	IMA	Intertrust Corporate Services (Cayman) Limited , 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0532735	HFP sub	1/24/2006	Terminated
Jasper CLO, Ltd.	IMA	Elian Fiduciary Services (Cayman) Limited - 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0595492	CLO Fund	3/9/2005	
Liberty CLO, Ltd.	IMA	Intertrust Corporate Services (Cayman) Limited , 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0595490	CLO Fund	6/30/2005	
Longhorn Credit Funding, LLC	IMA	United Corporate Services, Inc., 874 Walker Rd, Ste C, Dover, DE 19904	N/A	Separate account	10/15/2007	
ML CLO XIX Sterling (Cayman), Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	N/A	CLO Fund	4/27/1998	
Pam Capital Funding, L.P.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	20-3010953	CLO Fund	5/8/1998	
PamCo Cayman Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	N/A	CLO Fund	1/18/1997	
PensionDanmark Pensjonsforsikringsaktieselskab	IMA	Langelinie Allé 43, DK-2100 Copenhagen Ø	N/A	Separate account	6/24/1992	
Red River CLO, Ltd.	IMA	Elian Fiduciary Services (Cayman) Limited - 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0527219	CLO Fund	1/24/2006	
Rockwall CDO II Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	N/A	CLO Fund	4/12/2006	
Rockwall CDO, Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	98-0461407	CLO Fund	6/7/2005	
Southfork CLO, Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	N/A	CLO Fund	10/21/2004	
Stratford CLO, Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	98-0540945	CLO Fund	10/17/2006	
Valhalla CLO, Ltd.	IMA	Intertrust Corporate Services (Cayman) Limited , 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0595491	CLO Fund	6/9/2004	
Westchester CLO, Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	98-0546784	CLO Fund	11/10/2006	
Highland Latin America GP, Ltd.	Highland Capital Management, L.P., as trustee of Highland Latin America Trust and nominee for and on behalf of Highland Latin America LP, Ltd.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1362190	GP of the relying advisor to the Argentina fund	3/6/2017	

Highland Capital Management LP
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Exhibit F - SOFA 25

Name	Relationship	Address	EIN	Description of Business	Date of Creation	Date of Termination (if applicable)
Highland Capital Management Latin America, L.P.	Highland Capital Management, L.P., as trustee of Highland Latin America Trust and nominee for and on behalf of Highland Latin America LP, Ltd.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1362202	Relying advisor to the Argentina fund	4/13/2017	
Neutra, Ltd.	Highland Capital Management, L.P., as trustee of Acis CMOA Trust and nominee for and on behalf of Highland CLO Assets Holdings Limited	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1090422		12/12/2012	
Asbury Holdings, LLC (fka HCSLR Camelback Investors (Delaware), LLC)	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	N/A	Holds HCMLP's Haygood interest	2/14/2017	
De Kooning, Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1090348	Formed to hold Select's interest in Barclays' assignment	12/12/2012	
HCREF-I Holding Corp.	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	46-1998057	Holds HCMLP interest in HCREF	12/13/2012	
HCREF-XI Holding Corp.	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	46-2030348	Holds HCMLP's interest in HE Mezz KR, LLC	12/13/2012	
HCREF-XII Holding Corp.	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	46-2032401	Holds HCMLP's interest in 2006 Milam East Partners LP	12/13/2012	
HFP GP, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	16-1746972	HFP GP	1/20/2006	
Highland Brasil, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	46-4691319	Managing member of BB Votorantim Highland In	1/28/2014	
Highland Capital Management (Singapore) Pte Ltd	Highland Capital Management, L.P.	Tricor, 80 Robinson Road #02-00, Singapore 068898	98-0580590	HCMLP's wholly owned sub in Singapore	4/2/2008	
Highland Capital Management Korea Limited	Highland Capital Management, L.P.	(Seoul Finance Center, Taeyeongro-1-ga) 21F, 136, Sejong-daero, Jung-gu, Seoul, Korea	98-1120007	Relying advisor to the Korea PEF	8/2/2012	
Highland Capital Multi-Strategy Fund, LP	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-5237025	Private fund	7/6/2006	
Highland Capital Special Allocation, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-1175318	Entity received the incentive allocation from HFP.	12/21/2006	
Highland CDO Opportunity Fund GP, L.P.	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-3899907	Hedge fund	10/20/2005	
Highland CDO Opportunity GP, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-3899870	Hedge fund GP	10/20/2005	
Highland CLO Assets Holdings Limited	Highland Capital Management, L.P.	Maples Corporate Services (BVI) Limited Kingston Chambers, PO Box 173, Road Town Tortola, British Virgin Islands	98-1417806		12/19/2017	
Highland CLO Management Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1432973		10/27/2017	
Highland Dynamic Income Fund GP, LLC (fka Highland Capital Loan GP, LLC)	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	80-0898281	Hedge fund GP	2/25/2013	
Highland Employee Retention Assets LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	27-1596366	HERA	6/23/2009	
Highland ERA Management, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	N/A	HERA manager	2/1/2013	
Highland Financial Partners, L.P.	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	83-0446391	HFP	1/20/2006	Terminated
Highland Fund Holdings, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	N/A		5/24/2016	
Highland General Partner, LP	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	86-1147210	Hedge fund GP	7/26/2005	
Highland GP Holdings, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	86-1147208	Hedge fund GP	7/26/2005	
Highland HCF Advisor Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1401127	Advisor to Highland CLO Funding, Ltd.	10/27/2017	
Highland Latin America LP, Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1362186	Argentina fund structure	3/6/2017	
Highland Multi Strategy Credit Fund GP, L.P. (fka Highland Credit Opportunities CDO GP, L.P.)	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	N/A	Hedge fund GP	12/29/2005	
Highland Multi Strategy Credit GP, LLC (fka Highland Credit Opportunities CDO GP, LLC)	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	N/A	Hedge fund GP	12/29/2005	
Highland Multi-Strategy Fund GP, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-5236824	Private fund GP	7/6/2006	
Highland Multi-Strategy Fund GP, LP	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-5236931	Private fund GP	7/6/2006	
Highland Receivables Finance I, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-8123634	Entity created in 2006 that purchased all of HCMLP's receivables 100% owned by HCMLP.	12/28/2006	
Highland Restoration Capital Partners GP, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-1455912	Private equity fund GP	11/6/2007	
Highland Select Equity Fund GP, L.P.	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-3899917	Hedge fund GP	10/20/2005	
Highland Select Equity GP, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-3899886	Hedge fund GP	10/20/2005	
Highland SunBridge GP, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	N/A	Hedge fund GP	12/15/2015	
Hirst, Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1090361	Formed to hold CDO Ltd's interest in Barclays assignment	12/12/2012	
Hockney, Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1090388	Formed to hold Crusader's interest in Barclays assignment	12/12/2012	
Maple Avenue Holdings, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	81-3600687	Holds Uchi loan	8/17/2016	
NexPoint Hospitality Trust	Highland Capital Management, L.P.	333 Bay Street, Suite 3400, Toronto, Ontario M5H 2S7, Canada	83-6637675	Hospitality REIT	12/12/2018	
NexPoint Insurance Distributors, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	84-2921534	Insurance broker	7/25/2019	
NexPoint Insurance Solutions GP, LLC (fka Highland Capital Insurance Solutions GP, LLC)	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	84-2571487	Insurance advisor GP	4/4/2019	
NexPoint Insurance Solutions, L.P. (fka Highland Capital Insurance Solutions, L.P.)	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	84-2584142	Insurance advisor	4/4/2019	
NexPoint Multifamily Capital Trust, Inc.	Highland Capital Management, L.P.	The Corporation Trust, 2405 York Rd, Ste 201, Lutherville Timonium, MD 21093	46-4106316	NMCT REIT	11/12/2013	
NexPoint Real Estate Strategies Fund	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	81-1061590	Retail fund	3/10/2006	
NexPoint Residential Trust Inc.	Highland Capital Management, L.P.	The Corporation Trust, 2405 York Rd, Ste 201, Lutherville Timonium, MD 21093	47-1881359	NXRT REIT	9/19/2014	
NexPoint Strategic Opportunities Fund (fka NexPoint Credit Strategies Fund)	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	80-0139099	Retail fund	3/10/2006	
NHT Holdco, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	83-3011801	Hospitality REIT structure	1/2/2019	
Oldenburg, Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1090453	Formed to hold CDO LP's interest in Barclays assignment	12/12/2012	
Penant Management LP	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	46-1614710	Holds HCREF's interest in Barclays assignment	12/12/2012	
PetroCap Incentive Partners III, LP	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	?	Petrocap fund	11/16/2017	
PetroCap Partners II, L.P.	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	46-4691213	Petrocap fund	10/7/2013	
PetroCap Partners III, L.P.	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	?	Petrocap fund	11/16/2017	
Pollack, Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1090519		12/12/2012	
SE Multifamily Holdings LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	32-0576655	RE investment holding	8/23/2018	

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Name	Relationship	Address	EIN	Description of Business	Date of Creation	Date of Termination (if applicable)
The Dondero Insurance Rabbi Trust	Highland Capital Management, L.P.	300 Crescent Ct, Ste 700, Dallas, TX 75201	75-2716725	Holds Dondero's life insurance policies and the proceeds to be used to fund HCM's obligation to purchase Dondero Interests from the Trust Beneficiaries per Buy-Sell Agreement	5/27/2004	
The Okada Insurance Rabbi Trust	Highland Capital Management, L.P.	300 Crescent Ct, Ste 700, Dallas, TX 75201	75-2716725	Holds Okada's life insurance policies and the proceeds to be used to fund HCM's obligation to purchase Okada Interests from the Trust Beneficiaries per Buy-Sell Agreement	5/27/2004	
US Gaming SPV, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	84-1769285	SPV of eSports investment in Korea	5/14/2019	
Warhol, Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1090362	Formed to hold Ops' interest in Barclays assignment	12/12/2012	
HE Capital 232 Phase I, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-1616599	Underlying property is a 71.73 acre site consisting of 232 finished single family lots in the NW Phoenix development of Asante.	12/20/2007	
HE Capital Asante, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-0525645	Underlying project is a 843 acre multi-phase residential development in NW Phoenix, AZ	7/5/2007	
HE Capital Fox Trails, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	N/A	Underlying project is a 889.58 acre vacant parcel in NW Phoenix with PAD approval for 2,320 single family units.	3/10/2008	
HE Capital KR, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	N/A	Underlying project is a 1,829.67 acre vacant parcel in SW Phoenix proposed for 4,250 single family lots of which 1,431 have final plat approval (Phase I) and 50.94 acres of commercial land.	7/5/2007	
HE Capital, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-8711786	Parent entity for joint venture between Ellman and Highland.	3/22/2007	
HE CLO Holdco, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	37-1666849	Blockers that used to hold Ellman interest	2/3/2011	
HE Mezz Fox Trails, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-2151278	Underlying project is a 889.58 acre vacant parcel in NW Phoenix with PAD approval for 2,320 single family units.	3/10/2008	
HE Mezz KR, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-0611280	Underlying project is a 1,829.67 acre vacant parcel in SW Phoenix proposed for 4,250 single family lots of which 1,431 have final plat approval (Phase I) and 50.94 acres of commercial land.	7/27/2007	
HE Peoria Place Property, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-1600012	Underlying project is a 127.39 acre vacant parcel in NW Phoenix being improved with interior roadways for ultimate development or sale under the PAD approving 11 acres of office, 23 acres of retail, 50 acres of single family an d43 acres of multi family.	12/10/2007	
HE Peoria Place, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-1599959	Underlying project is a 127.39 acre vacant parcel in NW Phoenix being improved with interior roadways for ultimate development or sale under the PAD approving 11 acres of office, 23 acres of retail, 50 acres of single family an d43 acres of multi family.	11/14/2007	
Hibiscus HoldCo, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	27-1824370	Blocker to hold Turtle Bay assets	2/2/2010	
Highland CLO Gaming Holdings, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	27-3995018	CLO blocker that used to hold Afflity Gaming inte	11/18/2010	
Highland TCI Holding Company, LLC	HCMLP-Manager	CT Corporation, 1999 Bryan St, Ste 900, Dallas, TX 75201	45-2620554	CLO blocker to hold TCI/Park West assets	6/21/2011	
Highland's Roads Land Holding Company, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-4572095	CLO blocker to hold LLV reorg equity	3/30/2009	
Kuilima Montalban Holdings, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	27-1942638	CLO blocker to hold Turtle Bay equity	2/19/2010	
Kuilima Resort Holdco, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-4572180	CLO blocker to hold Turtle Bay equity	3/18/2009	
Park West Holdco, LLC	HCMLP-Manager	CT Corporation, 1999 Bryan St, Ste 900, Dallas, TX 75201	37-1641409	Holds TCI assets	4/4/2011	
Park West Portfolio Holdco, LLC	HCMLP-Manager	CT Corporation, 1999 Bryan St, Ste 900, Dallas, TX 75201	90-0737248	Holds TCI assets	4/14/2011	
PDK Toys Holdco, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	83-3591646	PDK blocker to hold Toys R'Us loan	2/14/2019	
Acis CMOA Trust	HCMLP - Trustee	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	N/A		3/30/2018	
Highland Latin America Trust	HCMLP - Trustee	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	N/A		3/30/2018	

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Name	Amounts	Date	Reason
Dondero, James	161.25	01/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	01/15/2019	Regular Base Pay
Dondero, James	161.25	01/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	01/31/2019	Regular Base Pay
Dondero, James	161.25	02/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	02/15/2019	Regular Base Pay
Dondero, James	161.25	02/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	02/28/2019	Regular Base Pay
Dondero, James	161.25	03/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	03/15/2019	Regular Base Pay
Dondero, James	161.25	03/29/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	03/29/2019	Regular Base Pay
Dondero, James	161.25	04/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	04/15/2019	Regular Base Pay
Dondero, James	161.25	04/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	04/30/2019	Regular Base Pay
Dondero, James	161.25	05/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	05/15/2019	Regular Base Pay
Dondero, James	161.25	05/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	05/31/2019	Regular Base Pay
Dondero, James	161.25	06/14/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	06/14/2019	Regular Base Pay
Dondero, James	161.25	06/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	06/28/2019	Regular Base Pay
Dondero, James	161.25	07/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	07/15/2019	Regular Base Pay
Dondero, James	161.25	07/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	07/31/2019	Regular Base Pay
Dondero, James	161.25	08/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	08/15/2019	Regular Base Pay
Dondero, James	161.25	08/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	08/30/2019	Regular Base Pay
Dondero, James	161.25	09/13/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	09/13/2019	Regular Base Pay
Dondero, James	161.25	09/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	09/30/2019	Regular Base Pay
Dondero, James	161.25	10/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	10/15/2019	Regular Base Pay
Dondero, James	161.25	10/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	10/31/2018	Regular Base Pay
Dondero, James	161.25	11/15/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	11/15/2018	Regular Base Pay
Dondero, James	161.25	11/30/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	11/30/2018	Regular Base Pay
Dondero, James	161.25	12/14/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	12/14/2018	Regular Base Pay
Dondero, James	161.25	12/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	12/31/2018	Regular Base Pay
Ellington, Scott	71.25	01/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	01/15/2019	Regular Base Pay
Ellington, Scott	71.25	01/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	01/31/2019	Regular Base Pay
Ellington, Scott	71.25	02/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	02/15/2019	Regular Base Pay
Ellington, Scott	300,000.00	02/28/2019	Bonus
Ellington, Scott	71.25	02/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	02/28/2019	Regular Base Pay
Ellington, Scott	350,000.00	03/15/2019	Bonus
Ellington, Scott	71.25	03/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	03/15/2019	Regular Base Pay
Ellington, Scott	71.25	03/29/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	03/29/2019	Regular Base Pay

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Name	Amounts	Date	Reason
Ellington, Scott	71.25	04/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	04/15/2019	Regular Base Pay
Ellington, Scott	71.25	04/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	04/30/2019	Regular Base Pay
Ellington, Scott	71.25	05/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	05/15/2019	Regular Base Pay
Ellington, Scott	71.25	05/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	05/31/2019	Regular Base Pay
Ellington, Scott	71.25	06/14/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	06/14/2019	Regular Base Pay
Ellington, Scott	350,629.00	06/28/2019	Bonus and/or Deferred Compensation
Ellington, Scott	71.25	06/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	06/28/2019	Regular Base Pay
Ellington, Scott	71.25	07/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	07/15/2019	Regular Base Pay
Ellington, Scott	71.25	07/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	07/31/2019	Regular Base Pay
Ellington, Scott	71.25	08/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	08/15/2019	Regular Base Pay
Ellington, Scott	650,000.00	08/30/2019	Bonus
Ellington, Scott	71.25	08/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	08/30/2019	Regular Base Pay
Ellington, Scott	71.25	09/13/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	09/13/2019	Regular Base Pay
Ellington, Scott	71.25	09/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	09/30/2019	Regular Base Pay
Ellington, Scott	71.25	10/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	10/15/2019	Regular Base Pay
Ellington, Scott	71.25	10/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	10/31/2018	Regular Base Pay
Ellington, Scott	71.25	11/15/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	11/15/2018	Regular Base Pay
Ellington, Scott	71.25	11/30/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	11/30/2018	Regular Base Pay
Ellington, Scott	71.25	12/14/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	12/14/2018	Regular Base Pay
Ellington, Scott	604.78	12/31/2018	Gross up value from Dividend Reinvestment Plan
Ellington, Scott	71.25	12/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	12/31/2018	Regular Base Pay
Okada, Mark	204.25	01/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	01/15/2019	Regular Base Pay
Okada, Mark	204.25	01/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	01/31/2019	Regular Base Pay
Okada, Mark	204.25	02/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	02/15/2019	Regular Base Pay
Okada, Mark	204.25	02/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	02/28/2019	Regular Base Pay
Okada, Mark	204.25	03/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	03/15/2019	Regular Base Pay
Okada, Mark	204.25	03/29/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	03/29/2019	Regular Base Pay
Okada, Mark	204.25	04/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	04/15/2019	Regular Base Pay
Okada, Mark	204.25	04/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	04/30/2019	Regular Base Pay
Okada, Mark	204.25	05/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	05/15/2019	Regular Base Pay
Okada, Mark	204.25	05/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	05/31/2019	Regular Base Pay
Okada, Mark	204.25	06/14/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	06/14/2019	Regular Base Pay
Okada, Mark	204.25	06/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)

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Name	Amounts	Date	Reason
Okada, Mark	32,552.09	06/28/2019	Regular Base Pay
Okada, Mark	204.25	07/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	07/15/2019	Regular Base Pay
Okada, Mark	204.25	07/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	07/31/2019	Regular Base Pay
Okada, Mark	204.25	08/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	08/15/2019	Regular Base Pay
Okada, Mark	204.25	08/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	08/30/2019	Regular Base Pay
Okada, Mark	204.25	09/13/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	09/13/2019	Regular Base Pay
Okada, Mark	204.25	09/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	09/30/2019	Regular Base Pay
Okada, Mark	204.25	10/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	10/31/2018	Regular Base Pay
Okada, Mark	204.25	11/15/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	11/15/2018	Regular Base Pay
Okada, Mark	204.25	11/30/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	11/30/2018	Regular Base Pay
Okada, Mark	204.25	12/14/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	12/14/2018	Regular Base Pay
Okada, Mark	272.64	12/31/2018	Gross up value from Dividend Reinvestment Plan
Okada, Mark	204.25	12/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	12/31/2018	Regular Base Pay
Parker, Lee	47.50	01/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	01/15/2019	Regular Base Pay
Parker, Lee	47.50	01/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	01/31/2019	Regular Base Pay
Parker, Lee	47.50	02/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	02/15/2019	Regular Base Pay
Parker, Lee	231,250.00	02/28/2019	Bonus
Parker, Lee	47.50	02/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	02/28/2019	Regular Base Pay
Parker, Lee	47.50	03/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	03/15/2019	Regular Base Pay
Parker, Lee	150,000.00	03/29/2019	Bonus
Parker, Lee	47.50	03/29/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	03/29/2019	Regular Base Pay
Parker, Lee	47.50	04/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	04/15/2019	Regular Base Pay
Parker, Lee	47.50	04/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	04/30/2019	Regular Base Pay
Parker, Lee	47.50	05/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	05/15/2019	Regular Base Pay
Parker, Lee	47.50	05/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	05/31/2019	Regular Base Pay
Parker, Lee	47.50	06/14/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	06/14/2019	Regular Base Pay
Parker, Lee	362,935.00	06/28/2019	Bonus and/or Deferred Compensation
Parker, Lee	47.50	06/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	06/28/2019	Regular Base Pay
Parker, Lee	47.50	07/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	07/15/2019	Regular Base Pay
Parker, Lee	47.50	07/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	07/31/2019	Regular Base Pay
Parker, Lee	47.50	08/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	08/15/2019	Regular Base Pay
Parker, Lee	381,250.00	08/30/2019	Bonus
Parker, Lee	47.50	08/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	08/30/2019	Regular Base Pay
Parker, Lee	47.50	09/13/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	09/13/2019	Regular Base Pay

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Name	Amounts	Date	Reason
Parker, Lee	47.50	09/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	09/30/2019	Regular Base Pay
Parker, Lee	47.50	10/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	10/15/2019	Regular Base Pay
Parker, Lee	47.50	10/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	10/31/2018	Regular Base Pay
Parker, Lee	47.50	11/15/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	11/15/2018	Regular Base Pay
Parker, Lee	47.50	11/30/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	11/30/2018	Regular Base Pay
Parker, Lee	47.50	12/14/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	12/14/2018	Regular Base Pay
Parker, Lee	483.56	12/31/2018	Gross up value from Dividend Reinvestment Plan
Parker, Lee	47.50	12/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	12/31/2018	Regular Base Pay
Surgent, Thomas	56.25	01/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	01/15/2019	Regular Base Pay
Surgent, Thomas	56.25	01/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	01/31/2019	Regular Base Pay
Surgent, Thomas	56.25	02/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	02/15/2019	Regular Base Pay
Surgent, Thomas	300,000.00	02/28/2019	Bonus
Surgent, Thomas	56.25	02/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	02/28/2019	Regular Base Pay
Surgent, Thomas	325,000.00	03/15/2019	Bonus
Surgent, Thomas	56.25	03/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	03/15/2019	Regular Base Pay
Surgent, Thomas	56.25	03/29/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	03/29/2019	Regular Base Pay
Surgent, Thomas	56.25	04/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	04/15/2019	Regular Base Pay
Surgent, Thomas	56.25	04/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	04/30/2019	Regular Base Pay
Surgent, Thomas	56.25	05/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	05/15/2019	Regular Base Pay
Surgent, Thomas	100,000.00	05/31/2019	Bonus and/or Deferred Compensation
Surgent, Thomas	56.25	05/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	05/31/2019	Regular Base Pay
Surgent, Thomas	56.25	06/14/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	06/14/2019	Regular Base Pay
Surgent, Thomas	482,115.00	06/28/2019	Bonus and/or Deferred Compensation
Surgent, Thomas	56.25	06/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	06/28/2019	Regular Base Pay
Surgent, Thomas	56.25	07/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	07/15/2019	Regular Base Pay
Surgent, Thomas	56.25	07/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	07/31/2019	Regular Base Pay
Surgent, Thomas	56.25	08/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	08/15/2019	Regular Base Pay
Surgent, Thomas	625,000.00	08/30/2019	Bonus
Surgent, Thomas	56.25	08/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	08/30/2019	Regular Base Pay
Surgent, Thomas	56.25	09/13/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	09/13/2019	Regular Base Pay
Surgent, Thomas	56.25	09/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	09/30/2019	Regular Base Pay
Surgent, Thomas	56.25	10/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	10/15/2019	Regular Base Pay
Surgent, Thomas	56.25	10/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	10/31/2018	Regular Base Pay
Surgent, Thomas	56.25	11/15/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	11/15/2018	Regular Base Pay

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Name	Amounts	Date	Reason
Surgent, Thomas	56.25	11/30/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	11/30/2018	Regular Base Pay
Surgent, Thomas	56.25	12/14/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	12/14/2018	Regular Base Pay
Surgent, Thomas	2,344.18	12/31/2018	Gross up value from Dividend Reinvestment Plan
Surgent, Thomas	56.25	12/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	12/31/2018	Regular Base Pay
Waterhouse, Frank	71.25	01/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	01/15/2019	Regular Base Pay
Waterhouse, Frank	71.25	01/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	01/31/2019	Regular Base Pay
Waterhouse, Frank	71.25	02/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	02/15/2019	Regular Base Pay
Waterhouse, Frank	206,250.00	02/28/2019	Bonus
Waterhouse, Frank	71.25	02/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	02/28/2019	Regular Base Pay
Waterhouse, Frank	71.25	03/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	03/15/2019	Regular Base Pay
Waterhouse, Frank	71.25	03/29/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	03/29/2019	Regular Base Pay
Waterhouse, Frank	212,500.00	04/15/2019	Bonus
Waterhouse, Frank	71.25	04/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	04/15/2019	Regular Base Pay
Waterhouse, Frank	71.25	04/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	04/30/2019	Regular Base Pay
Waterhouse, Frank	71.25	05/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	05/15/2019	Regular Base Pay
Waterhouse, Frank	100,000.00	05/31/2019	Bonus and/or Deferred Compensation
Waterhouse, Frank	71.25	05/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	05/31/2019	Regular Base Pay
Waterhouse, Frank	71.25	06/14/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	06/14/2019	Regular Base Pay
Waterhouse, Frank	306,801.00	06/28/2019	Bonus and/or Deferred Compensation
Waterhouse, Frank	71.25	06/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	06/28/2019	Regular Base Pay
Waterhouse, Frank	71.25	07/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	07/15/2019	Regular Base Pay
Waterhouse, Frank	71.25	07/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	07/31/2019	Regular Base Pay
Waterhouse, Frank	71.25	08/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	08/15/2019	Regular Base Pay
Waterhouse, Frank	418,750.00	08/30/2019	Bonus
Waterhouse, Frank	14,583.33	08/30/2019	Regular Base Pay
Waterhouse, Frank	71.25	09/13/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	09/13/2019	Regular Base Pay
Waterhouse, Frank	71.25	09/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	09/30/2019	Regular Base Pay
Waterhouse, Frank	71.25	10/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	10/15/2019	Regular Base Pay
Waterhouse, Frank	71.25	10/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	10/31/2018	Regular Base Pay
Waterhouse, Frank	71.25	11/15/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	11/15/2018	Regular Base Pay
Waterhouse, Frank	71.25	11/30/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	11/30/2018	Regular Base Pay
Waterhouse, Frank	71.25	12/14/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	12/14/2018	Regular Base Pay
Waterhouse, Frank	71.25	12/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	12/31/2018	Regular Base Pay

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
	§	

**GLOBAL NOTES AND STATEMENT OF LIMITATIONS, METHODS, AND
DISCLAIMER REGARDING DEBTOR’S SCHEDULES OF ASSETS AND
LIABILITIES AND STATEMENT OF FINANCIAL AFFAIRS**

Highland Capital Management, L.P. (the “Debtor”) submits its Schedules of Assets and Liabilities (the “Schedules”) and Statement of Financial Affairs (the “SoFA”) in the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”). The Debtor, with the assistance of its advisors and management, prepared the Schedules and SoFA in accordance with section 521 title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”) and Rule 1007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

These Global Notes and Statement of Limitations, Methods, and Disclaimer Regarding the Debtor’s Schedules and SoFA (collectively, the “Global Notes”) pertain to, are incorporated by reference in, and comprise an integral part of the Schedules and SoFA. These Global Notes should be referred to, and reviewed in connection with any review of the Schedules and SoFA.²

The Schedules and SoFA have been prepared by the Debtor with the assistance and under the direction of the Debtor’s proposed Chief Restructuring Officer and additional personnel at Development Specialists, Inc. (collectively, the “CRO”) and are unaudited and subject to further review and potential adjustment and amendment. In preparing the Schedules and SoFA, the CRO relied on financial data derived from the Debtor’s books and records that was available at the time of preparation. The CRO has made reasonable efforts to ensure the accuracy and completeness of such financial information, however, subsequent information or discovery of other relevant facts may result in material changes to the Schedules and SoFA and inadvertent errors, omissions, or inaccuracies may exist. The Debtor reserves all rights to amend or supplement its Schedules and SoFA.

¹ The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

² These Global Notes are in addition to any specific notes contained in the Debtor’s Schedules or SoFA. The fact that the Debtor has prepared a “general note” with respect to any of the Schedules and SoFA and not to others should not be interpreted as a decision by the Debtor to exclude the applicability of such general note to any of the Debtor’s remaining Schedules and SoFA, as appropriate.

Reservation of Rights. The Debtor reserves all rights to amend the SoFA and Schedules in all respects, as may be necessary or appropriate, including, but not limited to, the right to dispute or to assert offsets or defenses to any claim reflected on the SoFA and Schedules as to amount, liability or classification of the claim, or to otherwise subsequently designate any claim as “disputed,” “contingent” or “unliquidated.” Furthermore, nothing contained in the SoFA and Schedules shall constitute a waiver of rights by the Debtor involving any present or future causes of action, contested matters or other issues under the provisions of the Bankruptcy Code or other applicable non-bankruptcy laws.

Description of the Case and “As Is” Information Date. On October 16, 2019 (the “Petition Date”), the Debtor filed a voluntary petition for relief with the United States Bankruptcy Court for the District of Delaware (the “Delaware Bankruptcy Court”) under Chapter 11 of the Bankruptcy Code. The Debtor is managing its assets as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On December 4, 2019, the Delaware Bankruptcy Court entered an Order transferring this case to the Bankruptcy Court [Docket No. 1].

Asset information in the Schedules reflects the Debtor’s best estimate of asset values as of the Petition Date, unless otherwise noted. No independent valuation has been obtained.

Basis of Presentation. The Schedules and SoFA do not purport to represent financial statements prepared in accordance with Generally Accepted Accounting Principles (“GAAP”), nor are they intended to fully reconcile to any financial statements otherwise prepared and/or distributed by the Debtor.

Although these Schedules and SoFA may, at times, incorporate information prepared in accordance with GAAP, the Schedules and SoFA neither purport to represent nor reconcile to financial statements prepared and/or distributed by the Debtor in accordance with GAAP or otherwise. Moreover, given, among other things, the valuation and nature of certain liabilities, to the extent that the Debtor shows more assets than liabilities, this is not a conclusion that the Debtor was solvent at the Petition Date. Likewise, to the extent that the Debtor shows more liabilities than assets, this is not a conclusion that the Debtor was insolvent at the Petition Date or any time prior to the Petition Date.

Estimates. To timely close the books and records of the Debtor, the CRO must make certain estimates and assumptions that affect the reported amounts of assets and liabilities and reported revenue and expenses. The Debtor reserves all rights to amend the reported amounts of assets, liabilities, revenue, and expenses to reflect changes in those estimates and assumptions.

Confidentiality. There may be instances within the Schedules and SoFA where names, addresses, or amounts have been left blank. Due to the nature of an agreement between the Debtor and the third party, concerns of confidentiality, or concerns for the privacy of an individual, the Debtor may have deemed it appropriate and necessary to avoid listing such names, addresses, and amounts.

Intercompany Claims. Any receivables and payables between the Debtor and affiliated or related entities in this case (each an “Intercompany Receivable” or “Intercompany Payable” and, collectively, the “Intercompany Claims”) are reported as assets on Schedule B or liabilities on Schedule E and Schedule F. These Intercompany Claims include the following components, among others: 1) loans to affiliates or related entities, 2) accounts payable and payroll disbursements made out of an affiliate’s or related entity’s bank accounts on behalf of the Debtor, 3) centrally billed expenses, 4) corporate expense allocations, and 5) accounting for trade and other intercompany transactions. These Intercompany Claims may or may not result in allowed or enforceable claims by or against the Debtor, and by listing these claims the Debtor is not indicating a conclusion that the Intercompany Claims are enforceable. Intercompany Claims may also be subject to set off, recoupment, and netting not reflected in the Schedules. In situations where there is not an enforceable claim, the assets and/or liabilities of the Debtor may be greater or lesser than the amounts stated herein. All rights to amend intercompany Claims in the Schedules and SoFA are reserved.

The Debtor has listed the intercompany payables as unsecured claims on Schedule F. The Debtor reserves its rights to later change the characterization, classification, categorization, or designation of such items.

Insiders. For purposes of the Schedules and SoFA, the Debtor defines “insider” pursuant to section 101(31) of the Bankruptcy Code. Payments to insiders are set forth on Question 3.c. of the SoFA.

Persons listed as “insiders” have been included for informational purposes only. The Debtor did not take any position with respect to whether such individual could successfully argue that he or she is not an “insider” under applicable law, including without limitation, the federal securities laws, or with respect to any theories of liability or for any other purpose. Inclusion of any party in the Schedules and SoFA as an insider does not constitute an admission that such party is an insider or a waiver of such party’s right to dispute insider status.

Excluded Accruals and GAAP Entries. The Debtor’s balance sheet reflects liabilities recognized in accordance with GAAP; however, not all such liabilities would result in a claim against the Debtor. Certain liabilities (including but not limited to certain reserves, deferred charges, and future contractual obligations) have not been included in the Debtor’s Schedules. Other immaterial assets and liabilities may also have been excluded.

Classification and Claim Descriptions. Any failure to designate a claim on the Schedules as “disputed,” “contingent” or “unliquidated” does not constitute an admission by the Debtor that such amount is not “disputed,” “contingent” or “unliquidated.” The Debtor reserves the right to dispute, or to assert offsets or defenses to, any claim reflected on its Schedules as to amount, liability or classification or to otherwise subsequently designate any claim as “disputed,” “contingent” or “unliquidated.”

Listing a claim (i) in Schedule D as “secured,” (ii) in Schedule E as “priority” or (iii) in Schedule F as “unsecured nonpriority,” or listing a contract in Schedule G as “executory” or “unexpired,” does not constitute an admission by the Debtor of the legal rights of the claimant or a waiver of the Debtor’s right to recharacterize or reclassify such claim or contract.

Moreover, the Debtor reserves all rights to amend the SoFA and Schedules, in all respects, as may be necessary or appropriate, including, but not limited to, the right to dispute or to assert offsets or defenses to any claim reflected on the SoFA and Schedules as to amount, liability or classification of the claim, or to otherwise subsequently designate any claim as “disputed,” “contingent” or “unliquidated.” Furthermore, nothing contained in the SoFA and Schedules shall constitute a waiver of rights by the Debtor involving any present or future causes of action, contested matters or other issues under the provisions of the Bankruptcy Code or other relevant non-bankruptcy laws.

Credits and Adjustments. The claims of individual creditors for, among other things, goods, products, services or taxes are listed as the amounts entered on the Debtor’s books and records and may not reflect credits, allowances or other adjustments due from such creditors to the Debtor. The Debtor reserves all of its rights respecting such credits, allowances or other adjustments.

Setoffs. The Debtor may incur setoffs from third parties in its business. Setoffs in the ordinary course can result from various routine transactions, including intercompany transactions, pricing discrepancies, warranty claims and other disputes between the Debtor and third parties. Certain of these constitute normal setoffs consistent with the ordinary course of business in the Debtor’s industry. In such instances, such ordinary course setoffs are excluded from the Debtor’s responses to Question 13 of the SoFA. The Debtor reserves all rights to enforce or challenge, as the case may be, any setoffs that have been or may be asserted.

Specific Notes. These general notes are in addition to the specific notes set forth below or in the related Statement and Schedules hereinafter.

General Disclaimer

The Debtor has prepared the Schedules and the SoFA based on the information reflected in the Debtor’s books and records. However, inasmuch as the Debtor’s books and records have not been audited or formally closed and evaluated for proper cut-off on the Petition Date, the Debtor cannot warrant the absolute accuracy of these documents. The Debtor has made a diligent effort to complete these documents accurately and completely. To the extent additional information becomes available, the Debtor will amend and supplement the Schedules and SoFA.

Specific Schedules Disclosures

- a. **Schedule A/B, Part 4 - Investments; Non-Publicly Traded Stock and Interests in Incorporated and Unincorporated Businesses, including any Interest in an LLC, Partnership, or Joint Venture.** Certain ownership interests in subsidiaries have been listed in Schedule A/B, Part 4, at their book value on account of the fact that the fair market value of such ownership is dependent on numerous variables and factors. Fair value of such interests may differ significantly from their net book value. Further, for investments listed at fair value, many of the Debtor’s assets are not exchange traded and are fair valued utilizing unobservable

inputs, historical information, and significant and/or subjective estimates. As a result the liquidity and ultimately realized value of such investments may differ materially from the fair value listed on the schedule.

- b. **Schedule A/B, Part 7 - Office Furniture, Fixtures, and Equipment; and Collectibles.** Dollar amounts are presented net of accumulated depreciation and other adjustments.
- c. **Schedule A/B, Part 11 - All Other Assets.** Dollar amounts are presented net of impairments and other adjustments. Debtor has reflected “unknown” for value of its interests in various other assets. While the face value of the notes receivable is included, the current value of these as well as the other assets has not been determined and may differ materially.

Additionally, the Debtor may receive refunds, income tax refunds or other sales tax refunds at various times throughout its fiscal year. As of the Petition Date, however, certain of these amounts are unknown to the Debtor, and accordingly, may not be listed in Schedule A/B.

Other Contingent and Unliquidated Claims or Causes of Action of Every Nature, including Counterclaims of the Debtor and Rights to Setoff Claims. In the ordinary course of its business, the Debtor may have accrued, or may subsequently accrue, certain rights to counter-claims, cross-claims, setoffs, or refunds with its customers and suppliers. Additionally, the Debtor may be party to pending litigation in which the Debtor has asserted, or may assert, claims as a plaintiff or counter-claims and/or cross-claims as a defendant. Because certain of these claims are unknown to the Debtor and not quantifiable as of the Petition Date, they may not be listed on Schedule A/B, Part 11.

- d. **Schedule D - Creditors Who Have Claims Secured by Property.** The Debtor reserves its rights to dispute or challenge the validity, perfection, or immunity from avoidance of any lien purported to be granted or perfected in any specific asset to a secured creditor listed on Schedule D. Moreover, although the Debtor has scheduled claims of various creditors as secured claims, the Debtor reserves all rights to dispute or challenge the secured nature of any such creditor’s claim or the characterization of the structure of any such transaction or any document or instrument related to such creditor’s claim.

The descriptions provided in Schedule D are intended only to be a summary. Reference to the applicable agreements and other related relevant documents is necessary for a complete description of the collateral and the nature, extent, and priority of any liens.

The Debtor has not included on Schedule D parties that may believe their claims are secured through setoff rights or inchoate statutory lien rights. Although there are multiple parties that hold a portion of the debt included in the secured

facilities, only the administrative agents have been listed for purposes of Schedule D.

e. **Schedule E/F - Creditors Who Have Unsecured Claims.**

Part 1 - Creditors with Priority Unsecured Claims. Pursuant to the *Order (I) Authorizing the Debtor to (A) Pay and Honor Prepetition Compensation, Reimbursable Business Expenses, and Employee Benefit Obligations, and (B) Maintain and Continue Certain Compensation and Benefit Programs Postpetition; and (11) Granting Related Relief* [Docket No. 39] (the “Wage Order”), the Debtor received authority to pay certain prepetition obligations, including to pay employee wages and other employee benefits, in the ordinary course of business. The Debtor believes that any non-insider employee claims for prepetition amounts related to ongoing payroll and benefits, whether allowable as a priority or nonpriority claim, which were due and payable at the time of the Petition Date have been or will be satisfied as permitted pursuant to the Wage Order. The Debtor filed the *Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations under Employee Bonus Plans and Granting Related Relief* [Docket No. 177] pursuant to which the Debtor seeks authority to pay and honor certain prepetition bonus programs. Employee claims related to these programs are shown in the aggregate amounts in Schedule E/F for privacy reasons. Additional information is available by appropriate request to the Debtor. The listing of a claim on Schedule E/F, Part 1, does not constitute an admission by the Debtor that such claim or any portion thereof is entitled to priority status.

Part 2 - Creditors with Nonpriority Unsecured Claims. The liabilities identified in Schedule E/F, Part 2, are derived from the Debtor’s books and records. The Debtor made a reasonable attempt to set forth its unsecured obligations, although the actual amount of claims against the Debtor may vary from those liabilities represented on Schedule E/F, Part 2. The listed liabilities may not reflect the correct amount of any unsecured creditor’s allowed claims or the correct amount of all unsecured claims.

Schedule E/F, Part 2 reflects liabilities based on the Debtor’s books and records.

Schedule E/F, Part 2, contains information regarding threatened or pending litigation involving the Debtor. The amounts for these potential claims are listed as “unknown” and are marked as contingent, unliquidated, and disputed in the Schedules and Statements. Additionally, the amounts of certain litigation claims may be estimates based on the allegations asserted by the litigation counterparty, and do not constitute an admission by the Debtor with respect to either liability for, or the amount of, such claims.

Schedule E/F, Part 2, reflects certain prepetition amounts owing to counterparties to executory contracts and unexpired leases. Such prepetition amounts, however,

may be paid in connection with the assumption or assumption and assignment of an executory contract or unexpired lease. In addition, Schedule E/F, Part 2, does not include claims that may arise in connection with the rejection of any executory contracts and unexpired leases, if any, that may be or have been rejected.

As of the time of filing of the Schedules and Statements, the Debtor had not received all invoices for payables, expenses, and other liabilities that may have accrued prior to the Petition Date. Accordingly, the information contained in Schedules D and E/F may be incomplete. The Debtor reserves its rights to amend Schedules D and E/F if and as it receive such invoices.

- f. **Schedule G - Executory Contracts and Unexpired Leases.** While reasonable efforts have been made to ensure the accuracy of Schedule G, inadvertent errors or omissions may have occurred.

Listing a contract or agreement on Schedule G does not constitute an admission that such contract or agreement is an executory contract or unexpired lease or that such contract or agreement was in effect on the Petition Date or is valid or enforceable. The Debtor hereby reserves all of its rights to dispute the validity, status, or enforceability of any contracts, agreements, or leases set forth in Schedule G and to amend or supplement such Schedule as necessary. Certain of the leases and contracts listed on Schedule G may contain renewal options, guarantees of payment, indemnifications, options to purchase, rights of first refusal and other miscellaneous rights. Such rights, powers, duties and obligations are not set forth separately on Schedule G. In addition, the Debtor may have entered into various other types of agreements in the ordinary course of its business, such as supplemental agreements, amendments, and letter agreement, which documents may not be set forth in Schedule G.

Certain of the agreements listed on Schedule G may have expired or terminated pursuant to their terms, but are listed on Schedule G in an abundance of caution.

The Debtor reserves all rights to dispute or challenge the characterization of any transaction or any document or instrument related to a creditor's claim.

In some cases, the same supplier or provider may appear multiple times in Schedule G. Multiple listings, if any, reflect distinct agreements between the Debtor and such supplier or provider.

The listing of any contract on Schedule G does not constitute an admission by the Debtor as to the validity of any such contract. The Debtor reserves the right to dispute the effectiveness of any such contract listed on Schedule G or to amend Schedule G at any time to remove any contract.

Omission of a contract or agreement from Schedule G does not constitute an admission that such omitted contract or agreement is not an executory contract or

unexpired lease. The Debtor's rights under the Bankruptcy Code with respect to any such omitted contracts or agreements are not impaired by the omission.

EXHIBIT 21

Assignment Agreement

ASSIGNMENT AGREEMENT

This Assignment Agreement, effective as of August 11, 2021 (this "Agreement"), is being entered by and among the Highland Claimant Trust (the "Claimant Trust") and the Highland Litigation Sub-Trust (the "Litigation Sub-Trust") for the transfer and assignment of certain claims and causes of action.

RECITALS

WHEREAS, on October 16, 2019, Highland Capital Management, L.P. (the "Debtor") filed with the United States Bankruptcy Court for the District of Delaware, a voluntary petition for relief under chapter 11 of the Bankruptcy Code, which case was subsequently transferred to the Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court") and captioned *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj11 (the "Chapter 11 Case");

WHEREAS, on November 24, 2020, the Debtor filed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* [Docket No. 1808] (as may be amended, supplemented, or otherwise modified from time to time, the "Plan"),¹ which was confirmed by the Bankruptcy Court on February 22, 2021, pursuant to the *Findings of Fact and Order Confirming Plan of Reorganization for the Debtor* [Docket No. 1943] (the "Confirmation Order");

WHEREAS, on August 11, 2021, the Effective Date of the Plan occurred [Docket No. 2700] and, pursuant to the Plan, the Claimant Trust and the Litigation Sub-Trust subsequently came into existence;

WHEREAS, pursuant to the Plan, the Causes of Action were vested in the Claimant Trust and the Estate Claims that were Causes of Action were transferred from the Claimant Trust to the Litigation Sub-Trust;

WHEREAS, the purpose of the Litigation Sub-Trust is to investigate, prosecute, settle, or otherwise resolve claims and causes of action for the benefit of the Claimant Trust Beneficiaries;

WHEREAS, pursuant to Section 2.6 of the Litigation Sub-Trust Agreement, the Claimant Trustee shall, upon reasonable request of the Litigation Trustee, execute, acknowledge and deliver such further instruments and do such further acts as may be necessary or proper to transfer to the Litigation Trustee any portion of the Claimant Trust Assets intended to be conveyed by the Litigation Sub-Trust Agreement and in the Plan;

WHEREAS, the Litigation Trustee, at the direction of the Claimant Trust Oversight Committee, has requested that the Claimant Trustee assign to the Litigation Sub-Trust all Causes of Action not otherwise held by the Litigation Sub-Trust to the Litigation Sub-Trust, other than those Causes of Action that (1) the Claimant Trustee is currently pursuing, and (2) the Claimant Trustee intends to pursue on behalf of entities managed by the Reorganized Debtor (together, the "

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan.

Claimant Trust Causes of Action").

AGREEMENT

In furtherance of the Plan and for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Claimant Trust hereby irrevocably transfers and assigns to the Litigation Sub-Trust any and all Causes of Action not previously transferred or assigned by operation of the Plan, the Litigation Sub-Trust Agreement, or otherwise, except for the Claimant Trust Causes of Action, effective as of the date below. For the avoidance of doubt, to the extent not already held by the Litigation Sub-Trust, all Causes of Action that will be included in the Litigation Trustee's complaint filed on or before October 15, 2021 are assigned to the Litigation Sub-Trust.

Executed as of October 8, 2021

Claimant Trust

By: 

James P. Seery, Jr., not individually but solely in his capacity as the Claimant Trustee

Litigation Sub-Trust

By: 

Marc Kirschner, not individually but solely in his capacity as the Litigation Trustee

EXHIBIT 22

The Former Employee Defendants' Objection to Report and Recommendation

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Reorganized Debtor.

MARC S. KIRSCHNER, as Litigation Trustee of the
Litigation Subtrust,

Plaintiff,

v.

CPCM, LLC, *et al.*,

Defendant.

Chapter 11
Case No. 19-34054-sgj11

Adv. Pro. No. 21-03076-sgj

Civil Action No. 3:22-CV-203-S

Consolidated with:

Case No. 3:22-cv-229

Case No. 3:22-cv-253

Case No. 3:22-cv-367

Case No. 3:22-cv-369

Case No. 3:22-cv-370

**THE FORMER EMPLOYEE DEFENDANTS'
OBJECTION TO REPORT AND RECOMMENDATION**

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The Former Employee Defendants¹ hereby object to the *Report and Recommendation to the District Court Proposing that It: (A) Grant Defendants' Motion to Withdraw the Reference at Such Time as the Bankruptcy Court Certifies that Action Is Trial Ready; But (B) Defer Pre-Trial Matters to the Bankruptcy Court* (the “**R&R**”) [Adv. Proc. Dkt. 151] and in support thereof respectfully state as follows:

SUMMARY OF ARGUMENT

1. Although the Former Employee Defendants agree with the Bankruptcy Court's finding that the reference *must* be withdrawn in this action, the Former Employee Defendants object to the R&R to the extent that the Bankruptcy Court (1) incorrectly determined it had subject matter jurisdiction over the Non-Core Causes of Action, (2) found mandatory withdrawal inapplicable with respect to the federal tax law issues present in this case, and (3) recommended it retain the Adversary Proceeding until it is trial-ready.

2. The Bankruptcy Court's lack of jurisdiction over this action is a vital issue that cannot be ignored and makes the Defendants' requests for immediate withdrawal of the reference different from a “typical” case² in which the parties agree that the Bankruptcy Court has at least

¹ Capitalized terms used, but not otherwise defined, herein have the meanings ascribed to them in the *Brief in Support of Motion to Withdraw the Reference for the Causes of Action in the Complaint Asserted Against the Former Employee Defendants* [Adv. Proc. Dkt. 28] (the “**Former Employee Defendants' Brief**”) or in the Complaint [Adv. Proc. Dkt. 1]. Unless otherwise stated herein, docket number identifications refer to the Adversary Proceeding No. 21-03076-sgj (the “**Adversary Proceeding**”).

² Indeed, the Bankruptcy Court was so focused on characterizing this action as a “typical” case that it incorrectly stated that “the Defendants argue that bankruptcy subject matter jurisdiction is lacking with regard to ... all 36 causes of action” asserted by the Litigation Trustee. R&R, at 14. The motions to withdraw the reference only stated that the Bankruptcy Court lacked subject matter jurisdiction with respect to non-core causes of action; in response to questions *on this issue* from the Bankruptcy Court at the Status Conference, counsel for the Former Employee Defendants stated that the Defendants were not asserting a lack of subject matter jurisdiction with respect to fraudulent transfer claims (*see* Transcript of Status Conference on Motions for Withdrawal of Reference (“**Status Conf. Tr.**”) at 29:15-18, March 17, 2022); and the Former Employee Defendants submitted supplemental briefing (*see* Notice of Supplemental Authority for the Former Employee Defendants' Motion to Withdraw the Reference [Adv. Proc. Dkt. 149]) demonstrating that courts have not applied the more limited post-confirmation jurisdiction standard to the bankruptcy court's “arising in” or “arising under” jurisdiction. As such, it is surprising that the Bankruptcy Court made such an error in the R&R.

“related to” jurisdiction.³ The Bankruptcy Court, however, wholly failed to acknowledge the importance of its potential lack of subject matter jurisdiction over the Non-Core Causes of Action in this case, instead simply recommending that the District Court adopt the Bankruptcy Court’s “typical practice to suggest that a district court wait until . . . the matter is trial ready.” Status Conf. Tr. at 7:11-15.

3. Indeed, in so ruling the Bankruptcy Court did not even consider the precedent from district court decisions in this district (or even all the Fifth Circuit decisions), which was discussed in the Former Employee Defendants’ Brief, the Bankruptcy Court never concluded that any party would suffer any harm from immediate withdrawal of the reference, and the Bankruptcy Court never addressed why, given the strong likelihood (or even the potential) that the Bankruptcy Court lacks jurisdiction to preside over the state law claims in this case, the Bankruptcy Court should preside over pre-trial matters in this action. Given the significant jurisdictional issues that exist with respect to the Non-Core Causes of Action, as well as the application of mandatory withdrawal of the reference to other claims, the District Court should reject the Bankruptcy Court’s recommendation that the Bankruptcy Court preside over this action for pre-trial purposes and, instead, should immediately withdraw the reference for all purposes.

³ Most of the Defendants also have filed motions to dismiss on the basis of lack of jurisdiction, making this an issue that the District Court will have to consider either now, or later in the case. See *Memorandum of Law in Support of the Okada Parties’ Motion to Dismiss* [Adv. Proc. Dkt. 126] at 24-25; *Charitable Defendants’ Brief in Support of Motion to Dismiss and Motion for More Definite Statement* [Adv. Proc. Dkt. 132] at 4-8; *Defendants NexPoint Advisors, L.P. and Highland Capital Management Fund Advisors, L.P.’s Memorandum of Law in Support of Motion to Dismiss* [Adv. Proc. Dkt. 137] at 4; *Leventon Brief in Support of Defendant Leventon’s Motion to Dismiss* [Adv. Proc. Dkt. 129] at 9-10; *Brief in Support of Defendant Ellington’s Motion to Dismiss* [Adv. Proc. Dkt. 133] at 4; and *Memorandum of Law in Support of the Motion to Dismiss of Defendants James Dondero, Dugaboy Investment Trust, Get Good Trust, and Strand Advisors, Inc.* [Adv. Proc. Dkt. 143] at 6-7.

BACKGROUND

4. On October 16, 2019, HCMLP filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”).

5. On February 22, 2021, the Bankruptcy Court entered the *Order (I) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (II) Granting Related Relief* [Bankr. Dkt. 1943] (the “**Confirmation Order**”).

6. Nearly eight months later, on October 15, 2021, the Litigation Trustee commenced the Adversary Proceeding against 23 defendants, asserting 36 different claims.

7. On January 18, 2022, the Former Employee Defendants filed their *Motion to Withdraw the Reference for the Causes of Action in the Complaint Asserted Against the Former Employee Defendants* (the “**Former Employee Defendants’ Motion**”) [Adv. Proc. Dkt. 27] and the Former Employee Defendants’ Brief [Adv. Proc. Dkt. 28]. With only a few exceptions, the other Defendants also sought to withdraw the reference of the Adversary Proceeding.

8. On March 4, 2022, the Litigation Trustee filed *The Litigation Trustee’s Response in Opposition to Defendants’ Motion to Withdraw the Reference* [Adv. Proc. Dkt. 95], addressing all Defendants’ motions to withdraw the reference.

9. On March 14, 2022, the Former Employee Defendants filed *The Former Employee Defendants’ Reply in Support of the Motion to Withdraw the Reference* (the “**Former Employee Defendants’ Reply**”) [Adv. Proc. Dkt. 108].

10. The Bankruptcy Court held a status conference on the motions to withdraw the reference on March 17, 2022 (the “**Status Conference**”). On April 6, 2022, the Bankruptcy Court issued the R&R, acknowledging that all Defendants have jury trial rights and that “[a]ll parties agree (even the [Litigation Trustee]) that the reference **must** ultimately be withdrawn for final adjudication to occur in the District Court.” R&R, at 3 (emphasis in original). The Bankruptcy

Court, however, recommended that “the District Court: refer all pre-trial matters to the Bankruptcy Court, and grant the Motions to Withdraw upon certification by the Bankruptcy Court that the parties are trial-ready.” R&R, at 20.

ARGUMENT

I. The Bankruptcy Court Lacks Subject Matter Jurisdiction over the Non-Core Causes of Action in the Adversary Proceeding.

11. The Bankruptcy Court is a unit of the District Court and only has authority, pursuant to 28 U.S.C. § 157(a) and this district’s Reference Order, to preside over “any or all proceedings arising under Title 11 or arising in or related to a case under Title 11.” Therefore, if a cause of action does not at least meet the “related to” test for jurisdiction, the Bankruptcy Court lacks any authority to take any actions with respect to such cause of action. Because the Bankruptcy Court has *no* subject matter jurisdiction with respect to the Non-Core Causes of Action, only immediate withdrawal of the reference on the basis of federal diversity jurisdiction⁴ can prevent dismissal of the Non-Core Causes of Action.

12. The Fifth Circuit Court of Appeals has repeatedly made clear that the scope of a bankruptcy court’s post-confirmation jurisdiction is extremely limited and differs markedly from the broad “related to” jurisdiction enjoyed by a bankruptcy court prior to confirmation of a chapter 11 plan. The Fifth Circuit’s test for post-confirmation jurisdiction is reflected in its three seminal decisions: *Bank of La. v. Craig’s Stores of Texas, Inc. (In re Craig’s Stores of Tex., Inc.)*, 266 F.3d 388 (5th Cir. 2001); *U.S. Brass Corp. v. Travelers Ins. Group, Inc. (In re U.S. Brass Corp.)*, 301 F.3d 296 (5th Cir. 2002); and *Newby v. Enron Corp. (In re Enron Corp. Sec.)*, 535 F.3d 325 (5th Cir. 2008).

13. The Fifth Circuit announced that it would apply an “exacting theory of post-

⁴ All parties now acknowledge that federal diversity jurisdiction exists with respect to the Adversary Proceeding.

confirmation bankruptcy jurisdiction” in *Craig’s Stores*. *Id.* at 391. After confirmation of its chapter 11 plan, the *Craig’s Stores* debtor brought an action in bankruptcy court that asserted breach of contract claims against the counterparty to a contract that the debtor had assumed under its plan. *Id.* at 389. Although the breach claims related to both pre- and post-confirmation conduct, the Fifth Circuit rejected the traditional “any conceivable effect” test for “related to” jurisdiction and declared that it would impose a “more exacting theory of post-confirmation bankruptcy jurisdiction” because, after confirmation, “bankruptcy jurisdiction[] ceases to exist, other than for matters pertaining to the implementation or execution of the plan.” *Id.* at 390.

14. Declining to find that the bankruptcy court had post-confirmation jurisdiction, the Fifth Circuit Court of Appeals reasoned that (i) the debtor’s claim against the bank principally dealt with post-confirmation relations between the parties, (ii) no “antagonism” or claim was pending between the parties at the time of confirmation, and (iii) no facts or law deriving from the reorganization or the plan were necessary to the claim asserted by the debtor against the defendant. *Id.* at 391. Critically, the Fifth Circuit dismissed the debtor’s argument that the bankruptcy court had post-confirmation jurisdiction because the status of the debtor’s contract would affect distributions to creditors under the plan, noting that “the same could be said of any other post-confirmation contractual relations in which [the debtor] is engaged.” *Id.* Nor was the court persuaded by the “[t]he fact that [the relevant contract] existed throughout the reorganization and was, by implication, assumed as part of the plan,” noting that this “is of no special significance.” *Id.*

15. In its next decision, *U.S. Brass*, the Fifth Circuit had the opportunity to explain what constitutes “matters pertaining to the implementation or execution of the plan.” In *U.S. Brass*, the debtor filed for chapter 11 protection to address product liability claims arising out of

defective plumbing parts. The debtor's insurers objected to confirmation of the plan and reached an agreement with the debtor to preserve the insurers' coverage defenses. This agreement was reflected in the plan, which provided that the underlying product liability claims would be litigated before a court of competent jurisdiction and either settled or litigated to final judgment. Although the chapter 11 plan provided for arbitration with respect to certain product liability claims, it specifically excluded Shell's claims from that provision. 301 F.3d at 299-301.

16. Thereafter, the debtor reached a settlement with Shell that provided for Shell's claims to be resolved by binding arbitration. The insurers objected to the debtor's motion seeking bankruptcy court approval of the settlement, arguing that the settlement agreement's arbitration provision constituted an impermissible modification of the plan and that the bankruptcy court lacked post-confirmation jurisdiction to approve such modification. *Id.* at 302-03. The Fifth Circuit again criticized the use of the "broad 'related to' test for application in post-confirmation disputes," but held that the bankruptcy court had core jurisdiction to determine if the settlement impermissibly modified the chapter 11 plan because bankruptcy law and an interpretation of the plan would determine the outcome of the dispute. *Id.* at 304; *see also Elec. Reliability Council of Tex., Inc. v. May (In re Tex. Commer. Energy)*, 607 F.3d 153, 157 (5th Cir. 2010) (post-confirmation jurisdiction existed to determine whether drawing on a letter of credit violated the terms of an injunction that was incorporated into the plan and specifically limited the ability to make such a draw because the "dispute was *intimately tied to the terms of the [plan]*." (emphasis added)).

17. In *Newby v. Enron*, the Fifth Circuit clarified that, even though post-confirmation jurisdiction is extremely limited, confirmation of a chapter 11 plan does not divest the bankruptcy court of jurisdiction over an adversary proceeding that had been commenced pre-confirmation

and as to which all parties conceded the bankruptcy court had jurisdiction when it was commenced. 535 F.3d at 334-35. In a much overlooked footnote, the Fifth Circuit was careful to distinguish its ruling from a ruling in an earlier Enron-related litigation in which the district court had dismissed claims based on pre-confirmation conduct for lack of post-confirmation jurisdiction. Specifically, the Fifth Circuit noted that *Newby v. Enron* involved the issue of whether confirmation **divested** the court of jurisdiction over a pre-confirmation litigation, not whether jurisdiction existed over an action at the time of its commencement:

[T]he District Court held that it lacked bankruptcy jurisdiction over claims based on pre-confirmation activities because the claims were raised post-confirmation. ***Considering that the claims were raised post-confirmation, the District Court held that such claims could not create jurisdiction***; it said nothing as to whether it could maintain jurisdiction over the very same claims if they had been raised pre-confirmation.

Id. at 335 n.9 (summarizing *In re Enron Corp.*, MDL-1446, No. H-01-3624, 2005 U.S. Dist. LEXIS 34032 (S.D. Tex. July 25, 2005) (emphasis added)).

18. Applying the standard developed by the Fifth Circuit, a court should consider the following to determine whether it has post-confirmation jurisdiction over a cause of action:

- i.) ***Was the action commenced prior to confirmation of the plan?*** If so, then the bankruptcy court maintains its subject matter jurisdiction after confirmation of the plan. If it was not commenced prior to confirmation, then the court must determine if “antagonism” existed between the parties with respect to the asserted claims prior to confirmation of the plan.⁵

⁵ *First Am. Title Ins. Co. v. First Trust Nat’l Ass’n (In re Biloxi Casino Belle Inc.)*, 368 F.3d 491 (5th Cir. 2004); *Beitel v. OCA, Inc. (In re OCA, Inc.)*, 551 F.3d 359, 367 n.10 (5th Cir. 2008); *Newby v. Enron*, 535 F.3d at 335-36; see also *George West 59 Inv., Inc. v. Williams (In re George West 59 Inv., Inc.)*, 526 B.R. 650, 654 n.10 (N.D. Tex. 2015) (bankruptcy court had post-confirmation jurisdiction over an adversary proceeding that was filed pre-confirmation); *Earthwise Energy, Inc. v. Crusader Energy Grp., Inc.*, No. 12-CV-00107-F, 2013 U.S. Dist. LEXIS 206522, at *41 (N.D. Tex. Jan. 17, 2013) (“The Adversary Proceeding commenced prior to plan confirmation, ... [and] [t]he subsequent occurrence of plan confirmation does not divest the court of properly exercised jurisdiction over pending matters.”); *Ae Mktg. v. Jenkins-Baldwin Corp.*, No. 3:07-CV-0321-F, 2010 U.S. Dist. LEXIS 161235,

ii.) *Does the action principally concern post-confirmation activities?* If so, then the bankruptcy court does *not* have post-confirmation jurisdiction unless the court has core jurisdiction to interpret or enforce the plan. *Craig's Stores*, 266 F.3d at 390-91. Note that this *does not* mean that the presence of pre-confirmation activities favors post-confirmation jurisdiction – it is a necessary, but not sufficient, requirement.

iii.) *Does resolution of the action require an interpretation or enforcement of the plan?* If so, then the bankruptcy court likely has subject matter jurisdiction and likely has core jurisdiction.

19. As reflected in the cases cited above, other Fifth Circuit cases and the published Northern District of Texas decisions addressing post-confirmation jurisdiction are consistent with this framework. Two additional cases from the Northern District of Texas predominantly rely upon the third question in the above framework – does resolution of the claims require an interpretation or enforcement of the plan? In *Tex. United House. Program, Inc. v. Wolverine Motg. Partner Ret.*, No. 3:17-cv-977-L, 2017 U.S. Dist. LEXIS 140992 (N.D. Tex. July 18, 2017), the debtor brought a post-confirmation lawsuit in district court against its prepetition lender alleging claims against the lender as a result of the lender's post-confirmation foreclosure action. The magistrate judge recommended referral of the action to the bankruptcy court because the debtor's chapter 11 plan had directly addressed the lender's debts and expressly allowed the lender to commence foreclosure proceedings if the debtor defaulted. 2017 U.S. Dist. LEXIS 140992, at *14. In *Burch v. Chase Bank of Tex. NA*, No. 4:20-cv-00524-O, 2020 U.S. Dist. LEXIS

at *7-8 (N.D. Tex. Feb. 1, 2010) (bankruptcy court was not divested of jurisdiction to hear a matter filed pre-confirmation).

249633 (N.D. Tex. Nov. 6, 2020), a former individual debtor commenced an action against a bank asserting that a note and mortgage were unenforceable against him as a result of the individual's prior bankruptcy case. The district court concluded that, because the individual asserted that the bank's actions violated the debtor's plan, the claims bore on the interpretation and enforcement of the individual debtor's plan, the suit was "arising in or related to" a case under title 11, and the bankruptcy court had post-confirmation jurisdiction. *Id.* at *7.

20. Applying this framework to the Adversary Proceeding, it is clear that the bankruptcy court lacks post-confirmation "related to" jurisdiction over the Non-Core Causes of Action. The Adversary Proceeding was commenced nearly eight months *after* confirmation of the Plan, and the Litigation Trustee did not even attempt to argue that any "antagonism" existed between HCMLP and the Former Employee Defendants prior to confirmation of the Plan. Although the Non-Core Causes of Action are based upon pre-confirmation activities, under *Craig's Stores* this prong is *necessary* but is not *sufficient* to demonstrate post-confirmation jurisdiction. Moreover, the Non-Core Causes of Action asserted in the Complaint are based upon state law. Their underlying merits are not tied to the terms of the Plan, do not require an interpretation of the Plan, do not seek to modify the terms of the Plan, and do not allege a violation of the terms of the Plan.

21. In determining that the Bankruptcy Court has subject matter jurisdiction over the Non-Core Causes of Action, though, the Bankruptcy Court did not even attempt to address the Fifth Circuit and Northern District of Texas precedents to analyze the scope of its post-confirmation "related to" jurisdiction. Instead, the Bankruptcy Court simply concluded that, if an action relates to pre-confirmation conduct and is preserved under the plan, then post-confirmation jurisdiction exists. (R&R, at 15-16). Not only does this test render the Fifth Circuit's

“antagonism” and “interpretation and implementation” requirements meaningless, but it flies in the face of the Fifth Circuit’s admonition in *Craig’s Stores* by simply focusing on whether litigation recoveries could enhance creditor recoveries under a plan. That is the essence of pre-confirmation “related to” jurisdiction and not the more exacting test envisioned by the Fifth Circuit in *Craig’s Stores*.

22. If the Bankruptcy Court’s test were adopted, then ***every single pre-confirmation claim*** that could be pursued by a reorganized debtor or a litigation trustee would fall within the scope of post-confirmation bankruptcy jurisdiction. That is because, under the separate jurisdictional standing requirement imposed by the Fifth Circuit, a plan ***must*** expressly preserve pre-confirmation causes of action if a reorganized debtor or litigation trustee wants to pursue them post-confirmation. *Dynasty Oil & Gas, LLC v. Citizens Bank (In re United Operating, LLC)*, 540 F.3d 351, 355-56 (5th Cir. 2008). Moreover, such a test would allow the plan to create post-confirmation subject matter jurisdiction where it otherwise might not exist, in clear violation of Fifth Circuit precedent. *U.S. Brass*, 301 F.3d at 303 (“However, the source of the bankruptcy court’s subject matter jurisdiction is neither the Bankruptcy Code nor the express terms of the Plan. The source of the bankruptcy court’s jurisdiction is 28 U.S.C. §§ 1334 and 157.”).

23. The Bankruptcy Court nevertheless relies upon the preservation of causes of action in the Plan as support for both the “antagonism” and “interpretation or implementation” requirements of *Craig’s Stores*. In doing so, the Bankruptcy Court simply avoids any discussion of actual “antagonism” and never addresses the decision in *Superior Air Parts, Inc. v. Kübler*, No. 3:14-CV-349-D, 2015 U.S. Dist. LEXIS 16777, at *35-36 (N.D. Tex. Feb. 11, 2015), which holds that whether a post-confirmation action affects the “interpretation or execution” of a confirmed chapter 11 plan requires a showing that the action is being taken in violation of the plan or would

undermine or interfere with the implementation of the plan.

24. Nor can *Biloxi Casino Belle* and *Daisytek*, cited by the Bankruptcy Court, support the Bankruptcy Court's proposition that the Litigation Trustee's pursuit of claims against the Defendants will affect the interpretation and execution the Plan. First, *Biloxi Casino Belle* involved litigation that ***was commenced pre-confirmation***. 368 F.3d at 496. Second, the District Court's decision in *Daisytek* is the only outlier among the district court decisions in the Northern District of Texas and should be rejected by this Court because, as the Bankruptcy Court did, the District Court improperly applied a pre-confirmation "related to" standard to find that a bankruptcy court had post-confirmation jurisdiction over a matter. *See Ernst & Young LLP v. Pritchard (In re Daisytek, Inc.)*, 323 B.R. 180, 185-86 (N.D. Tex. 2005) (finding the court had post-confirmation subject matter jurisdiction to authorize a Rule 2004 examination where the plan contemplated prosecution of the claims and the prosecution of the claims would enable distributions to be made to creditors under the plan). *Craig's Stores* makes it clear that such a broad interpretation of a plan is unwarranted. *Craig's Stores*, 266 F.3d at 391 ("while Craig's insists that the status of its contract with the Bank will affect its distribution to creditors under the plan, the same could be said of any other post-confirmation contractual relations in which Craig's is engaged.").

25. Further, the Bankruptcy Court suggests in a footnote that the narrow post-confirmation jurisdiction analysis in *Craig's Stores* does not apply in a liquidation case, thereby inferring that the Plan is a liquidating plan. *See R&R*, at 17 n.7. This inference, however, is directly contrary to the Bankruptcy Court's finding in paragraph 65 of the Confirmation Order:

Discharge (11 U.S.C. § 1141(d)(3)). The Debtor is entitled to a discharge of debts pursuant to section 1141(d)(3)(B) of the Bankruptcy Code. Under the Plan, the Claimant Trust or the Reorganized Debtor, as applicable, will continue to manage funds and conduct business in the same manner as the Debtor did prior to Plan confirmation, which includes

the management of the CLOs, Multi-Strat, Restoration Capital, the Select Fund, and the Korea Fund. Although the Plan projects that it will take approximately two years to monetize the Debtor's assets for fair value, Mr. Seery testified that while the Reorganized Debtor and Claimant Trust will be monetizing their assets, there is no specified time frame by which this process must conclude. Mr. Seery's credible testimony demonstrates that the Debtor will continue to engage in business after consummation of the Plan, within the meaning of Section 1141(d)(3)(B) and that the Debtor is entitled to a discharge pursuant to section 1141(d)(1) of the Bankruptcy Code.⁶

As the Bankruptcy Court itself has found, this case is unlike *Schmidt v. Nordlicht*, in which the court noted that it was unclear whether *Craig's Stores* applies to a plan of liquidation where there is no entity that emerges from the bankruptcy to continue operations. *Schmidt v. Nordlicht*, No. H-16-3614, 2017 U.S. Dist. LEXIS 18374, at *8-9 (S.D. Tex. Feb. 9, 2017).

26. In further pursuit of its results-oriented jurisdictional analysis, the Bankruptcy Court simply concludes that "antagonism" exists whenever the claims at issue *accrued* prior to confirmation. Although antagonism has not been explicitly defined by the Fifth Circuit, adopting such a broad view of "antagonism" would give the bankruptcy court jurisdiction any time litigation of pre-confirmation claims is preserved under a plan and would make the requirement no different from the question of whether the causes of action are based upon pre-confirmation activities. *See Craig's Stores*, 266 F.3d at 391.⁷ Thus, the *Craig's Stores* antagonism requirement would be irrelevant. This "accrual" test cannot be what was intended by the Fifth Circuit in *Craig's Stores* when explicitly noting that antagonism—separate from pre-confirmation relations

⁶ Confirmation Order ¶ 65. Capitalized terms used in this paragraph have the meanings ascribed to them in the Confirmation Order.

⁷ The Bankruptcy Court improperly notes that the Defendants have asserted "that an action must be filed prior to confirmation" to satisfy the antagonism requirement. R&R, at 16. This statement misstates the Former Employee Defendants' position. The Former Employee Defendants have made it clear that "antagonism" must arise by "some form of pre-confirmation litigation related to the post-confirmation causes of action" (Former Employee Defendants' Reply ¶ 5) or "that the parties are or have been engaged in active hostility before confirmation that directly relates to the claims at issue" (Status Conf. Tr. at 17:5-8). At no time have the Former Employee Defendants or any other Defendants taken the position that "antagonism" requires that the "exact case" be brought pre-confirmation. Status Conf. Tr. at 17:14-16.

between the parties—is a factor in determining the court’s subject matter jurisdiction over causes of action commenced after confirmation of a plan. *See Craig’s Stores*, 266 F.3d at 391.

27. Additionally, the Bankruptcy Court gives *no* explanation for why antagonism exists here, simply stating that “‘antagonism’ plainly existed between the parties at the date of the reorganization,” but citing no facts in support. R&R, at 16. Contrary to the Bankruptcy Court’s unsupported conclusion, no form of pre-confirmation litigation relating to the allegations in the Complaint against the Former Employee Defendants occurred, and none has been alleged by the Litigation Trustee.⁸

II. The Bankruptcy Court Improperly Rejected the Mandatory Withdrawal Standards under 28 U.S.C. § 157.

28. In addition, the Former Employee Defendants object to the Bankruptcy Court’s dismissal, without explanation, of the argument for mandatory withdrawal of the reference with respect to the fraudulent transfer claims that seek to use the Internal Revenue Service as a creditor that can recover transfers that were made before the Internal Revenue Service was a creditor. As set forth more fully in the *Limited Objection of the Okada Parties to Report and Recommendation of the Bankruptcy Court Regarding Motion to Withdraw the Reference*, this is a question of federal tax law as to which courts have disagreed⁹ and no precedent exists in the Fifth Circuit.

⁸ The Bankruptcy Court states, “It appears that all of the Defendants are owned, controlled, or related to Mr. Dondero, although some of the Defendants dispute this characterization.” R&R, at 5. The Bankruptcy Court *sua sponte* made this finding with neither presentation of evidence nor a request for such a finding by any party. Although this statement is entirely irrelevant to the question of whether the court has subject matter jurisdiction, the Former Employee Defendants object to this blanket characterization of their relationship with Mr. Dondero.

⁹ Compare *Gordon v. Webster (In re Webster)*, 629 B.R. 654, 675-77 (Bankr. N.D. Ga. 2021) (collecting cases showing inconsistency among courts), and *Luria v. Thunderflower, LLC (In re Taylor, Bean & Whitaker Mortg. Corp.)*, No. 3:09-bk-07047-JAF, Adv. Proc. No. 3:11-ap-0693-JAF, 2018 Bankr. LEXIS 3019, at *18 (Bankr. M.D. Fla. Sept. 28, 2018) (noting that “the ten-year period [referenced in section 6502] appears to be a look-forward period rather than a lookback period” and “[t]he Court is unaware of case law permitting the IRS to avoid transfers made prior to the original taxpayer assessment”), with *Shearer v. Tepsic (In re Emergency Monitoring Techs., Inc.)*, 347 B.R. 17, 18- 19 (Bankr. W.D. Pa. 2006) (finding the trustee could prove a set of facts that would allow avoidance of transfer that occurred before the IRS’s claim arose under state statute and the 10-year “limitations period [under section 6502] had not passed as of the date of the Debtor’s bankruptcy petition”).

Accordingly, the Bankruptcy Court's conclusory statement that "bankruptcy courts routinely consider tax matters" (R&R, at 19) is not only unhelpful but also wholly irrelevant to the analysis of mandatory withdrawal of the reference.

III. The District Court Should Order Immediate Withdrawal of the Reference.

29. In summary, the Bankruptcy Court has no subject matter jurisdiction with respect to the Non-Core Causes of Action, and mandatory withdrawal of the reference applies with respect to certain of the otherwise core claims.¹⁰ Mandatory withdrawal of the reference requires immediate withdrawal of the reference, and any defect in the Bankruptcy Court's subject matter jurisdiction can only be cured by immediate withdrawal of the reference.

30. In light of these issues, the question posed by the Former Employee Defendants' counsel at the status conference – "why wouldn't this Court recommend to the district court that the district court withdraw the reference immediately?" – should be answered. Status Conf. Tr. at 33:3-8. Neither the Bankruptcy Court nor the Litigation Trustee, however, has stated why the Bankruptcy Court should preside over pre-trial matters in the Adversary Proceeding. Neither the Bankruptcy Court nor the Litigation Trustee has suggested that any harm would result from immediately withdrawing the reference. On the other hand, if the reference is not withdrawn immediately and it is later determined that the Bankruptcy Court has no subject matter jurisdiction over the Non-Core Causes of Action, then the Non-Core Causes of Action will be subject to dismissal on jurisdictional grounds, every decision by the Bankruptcy Court would be invalid, and the parties would have to go back to square one (assuming the Litigation Trustee chose to re-

¹⁰ The Former Employee Defendants note that certain of the Defendants also have asserted that mandatory withdrawal of the reference applies to certain causes of action that require the interpretation and application of the federal securities laws. See *Limited Objection of NexPoint Advisors, L.P. and Highland Capital Management Fund Advisors, L.P. to Report and Recommendation to District Court on the Motion to Withdraw the Reference*, filed contemporaneously with this objection. None of these counts affect the Former Employee Defendants, but these are additional counts that warrant immediate withdrawal of the reference.

file the dismissed causes of action).

31. Especially when coupled with the issues surrounding mandatory withdrawal of the reference, this Court should reject the Bankruptcy Court's recommendation that the Bankruptcy Court preside over the Adversary Proceeding until the Adversary Proceeding is trial-ready and should withdraw the reference of the Adversary Proceeding immediately for all purposes.

Dated: April 15, 2022

By: /s/ Debra A. Dandeneau

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 15, 2022, a true and correct copy of the foregoing was served electronically via the Court's CM/ECF notice system to all counsel of record registered to receive notice.

/s/Debra A. Dandeneau

Debra A. Dandeneau

EXHIBIT 23

**The Former Employee Defendants' Reply in Support of Objection to Report and
Recommendation**

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Reorganized Debtor.

MARC S. KIRSCHNER, as Litigation Trustee of the
Litigation Subtrust,

Plaintiff,

v.

CPCM, LLC, *et al.*,

Defendant.

Chapter 11
Case No. 19-34054-sgj11

Adv. Pro. No. 21-03076-sgj

Civil Action No. 3:22-CV-203-S

Consolidated with:

Case No. 3:22-cv-229
Case No. 3:22-cv-253
Case No. 3:22-cv-367
Case No. 3:22-cv-369
Case No. 3:22-cv-370

**THE FORMER EMPLOYEE DEFENDANTS' REPLY IN SUPPORT
OF OBJECTION TO REPORT AND RECOMMENDATION**

In response to *The Former Employee Defendants' Objection to Report and Recommendation*, dated April 15, 2022 [Dkt. 16] (the “**Former Employee Defendants' Objection**”), and the objections filed by the other Defendants,¹ the Litigation Trustee has filed a *Response in Support of the Bankruptcy Court's Report and Recommendation*, dated May 4, 2022 [Dkt. 25] (the “**Response**”), in which he has re-worked his jurisdictional arguments, relying upon allegations and arguments that the Litigation Trustee never raised in the briefing on the motions to withdraw the reference or during the Bankruptcy Court's Status Conference. As such, the

¹ Capitalized terms used, but not otherwise defined, herein have the meanings ascribed to them in the Former Employee Defendants' Objection or the *Brief in Support of Motion to Withdraw the Reference for the Causes of Action in the Complaint Asserted Against the Former Employee Defendants*, dated January 18, 2022 [Adv. Dkt. 28] (the “**Former Employee Defendants' Brief**”). Unless otherwise stated herein, docket number identifications refer to this consolidated action, Civil Action No. 3:22-CV-203-S. Any references to the adversary proceeding docket refer to Adversary Proceeding No. 21-03076-sgj, unless otherwise specified herein.

Former Employee Defendants² hereby file *The Former Employee Defendants' Reply in Support of Objection to Report and Recommendation* to address these new allegations and arguments.

I. The Litigation Trustee Failed to Meet His Burden to Establish Subject Matter Jurisdiction Over Each Non-Core Cause of Action.

The Litigation Trustee has the burden of establishing the Bankruptcy Court's subject matter jurisdiction over each Cause of Action as it relates to each Defendant. *See Colvin v. Amegy Mortg. Co., L.L.C.*, 507 B.R. 169, 177-78 (W.D. Tex. 2014) (analyzing the court's post confirmation subject matter jurisdiction on a claim-by-claim basis); *Hous. Baseball Partners, LLC v. Comcast Corp. (In re Hous. Reg'l Sports Network)*, No. 13-35998, 2014 Bankr. LEXIS 2274, at *11 (Bankr. S.D. Tex. May 22, 2014) ("The Court must be satisfied that it has subject matter jurisdiction over each claim asserted. . ."); *Daniels v. Jackson*, No. 3:20-cv-00842-M-BT, 2021 U.S. Dist. LEXIS 173157, at *7 (N.D. Tex. Aug. 26, 2021) (finding the court "lacks subject matter jurisdiction as to each Defendant"). Rather than conduct a thorough analysis, the Litigation Trustee attempts to shoehorn all Causes of Action asserted against all Defendants within the scope of the Bankruptcy Court's subject matter jurisdiction by relying upon broad language in the Plan, the existence of general animus in the Bankruptcy Case, and allegations raised in isolated pleadings filed in the Debtor's Bankruptcy Case. Even with the Litigation Trustee's new approach, he has failed to establish that the Bankruptcy Court has subject matter jurisdiction with respect to the Non-Core Causes of Action asserted against the Former Employee Defendants.

A. The Formation of a Litigation Trust under a Plan Cannot Create Post-Confirmation Subject Matter Jurisdiction for a Bankruptcy Court Where None Otherwise Exists.

In an attempt to manufacture some binding support for his and the Bankruptcy Court's

² On May 16, 2022, the Litigation Trustee voluntarily dismissed Defendants Frank Waterhouse and CPCM, LLC from this action with prejudice. *See Notice of Voluntary Dismissal*, dated May 16, 2022 [Adv. Dkt. 157]. As such, reference to the "Former Employee Defendants" shall refer only to Scott Ellington and Isaac Leventon.

flawed conclusion that the Bankruptcy Court has post-confirmation jurisdiction over the Non-Core Causes of Action simply because “litigation recoveries have been assigned to a ‘liquidating trust . . . for the benefit of unsecured creditors,’” the Litigation Trustee relies upon the Fifth Circuit’s decision in *First Am. Title Ins. Co. v. First Trust Nat’l Ass’n (In re Biloxi Casino Belle Inc.)*, 368 F.3d 491 (5th Cir. 2004). The Litigation Trustee’s broad reference to *Biloxi Casino Belle* as support for the proposition that bankruptcy court jurisdiction exists whenever causes of action are assigned to a liquidating trust for the benefit of unsecured creditors is misleading. As previously noted by the Defendants³, *Biloxi Casino Belle* involved **actual litigation that was commenced prior to confirmation of the plan**. See *Biloxi Casino Belle*, 368 F.3d at 495-96. In fact, as the Fifth Circuit Court of Appeals noted, “[m]ost of the litigation stemming from the failed casino projects came to a close in July 1997 with the filing and the bankruptcy court’s approval of the BCI/BCBI Amended Joint Liquidating Plan,” with only the insurance dispute continuing. *Id.* at 495.

The Fifth Circuit addressed bankruptcy court jurisdiction in a footnote, in which it stated that the suit at issue “pertains to the implementation or execution of the plan” because a settlement of pre-confirmation litigation of a matter related to the ongoing dispute involved the assignment of recoveries to the litigation trust:

White Construction settled its lien priority litigation against First Trust in exchange for First Trust’s assignment of any recovery in this case to the BCI/BCBI liquidating trust (of which First Trust is liquidating trustee) for the benefit of unsecured creditors.

Id. n.4 (quoting *Bank of La. v. Craig’s Stores of Tex., Inc. (In re Craig’s Stores of Tex., Inc.)*, 266 F.3d 388, 390 (5th Cir. 2001)). The plain language of the Fifth Circuit’s analysis of this issue

³ See Former Employee Defendants’ Brief ¶ 32; *Former Employee Defendants’ Reply in Support of the Motion to Withdraw the Reference*, dated March 14, 2022 [Adv. Dkt. 108] ¶ 7; Former Employee Defendants’ Objection ¶ 24.

does not support the broad conclusion advanced by the Litigation Trustee. Moreover, *Biloxi Casino Belle* was decided before the Fifth Circuit concluded in *Newby v. Enron Corp. (In re Enron Corp. Sec.)*, 535 F.3d 325 (5th Cir. 2008) that the bankruptcy court is not divested of jurisdiction when it has jurisdiction over an action commenced pre-confirmation. *See* 535 F.3d at 334-35. Nothing in *Biloxi Casino Belle* or any other binding precedent supports the proposition that jurisdiction exists under 28 U.S.C. § 1334(b) simply because claims as to which no legal skirmishing occurred pre-confirmation were assigned to a litigation trust under a plan. Nor can it, as this conclusion would both render meaningless the “antagonism” prong of *Craig’s Stores* and conflate the broad “related to” jurisdiction afforded to a Bankruptcy Court prior to confirmation with the narrower post-confirmation standard set forth by the Fifth Circuit Court of Appeals in *Craig’s Stores* and its progeny. *See* Former Employee Defendants’ Objection ¶ 21-23.

B. The Litigation Trustee’s Definition of “Antagonism” Is Fundamentally Flawed and Inconsistent with Binding Precedent.

Seemingly to make up for the lack of support for the Bankruptcy Court’s bald conclusion that antagonism “plainly existed” with respect to the Defendants prior to confirmation (R&R at 16), the Litigation Trustee raises brand new allegations and arguments regarding the antagonism requirement. The Litigation Trustee now seems to argue that “antagonism” exists with respect to all the Causes of Action in the Complaint because the Debtor’s Bankruptcy Case was contentious, even though none of the contentious matters in the case related to any Causes of Action, much less those asserted against the Former Employee Defendants.⁴ *See* Response ¶ 6. This notion is absurd—bankruptcy cases, by their very nature, are contentious.

⁴ The only possible exceptions are the Causes of Action referenced in footnote four of the Response, which do not relate to the Former Employee Defendants.

Although “antagonism” has not been explicitly defined by the Fifth Circuit Court of Appeals, it is clear that antagonism does not exist merely because a chapter 11 case is contentious, or unsupported allegations are made in pleadings filed before a bankruptcy court. Rather, antagonism requires a concrete showing of “some form of pre-confirmation litigation related to the post-confirmation causes of action.” Former Employee Defendants’ Reply ¶ 9; *see also Craig’s Stores*, 266 F.3d at 391 (finding no “antagonism or claim pending between the parties as of the date of the reorganization” because “[t]he fact that the account management contract existed throughout the reorganization and was, by implication, assumed as part of the plan is of no special significance”); Status Conf. Tr. at 16:14-18:11. This is evidenced by the District Court’s decision in *Tex. United House. Program, Inc. v. Wolverine Mortg. Partner Ret.*, No. 3:17-cv-977-L, 2017 U.S. Dist. LEXIS 140992 (N.D. Tex. July 18, 2017). That case involved active pre-confirmation disputes between the parties surrounding the debt that became the subject of post-confirmation litigation between the same parties. Thus, antagonism existed with respect to the parties and the claims prior to confirmation of the chapter 11 plan. *See id.* at *14-15. *Texas United*, therefore, does not support the conclusion that antagonism exists because the debtor or other parties in the case display some sort of general, unrelated animus against defendants prior to confirmation.

The Litigation Trustee has not tied any of the new allegations asserted in his Response to any specific Non-Core Cause of Action asserted against Ellington or Leventon in the Complaint, as he must. *See Colvin*, 507 B.R. at 178 (analyzing post-confirmation subject matter jurisdiction on a claim-by-claim basis, noting “neither party has made any effort to distinguish between the types of claims asserted” but that “the Court believes that such distinctions are appropriate”). The Litigation Trustee cannot satisfy his burden by asserting general, pre-confirmation *allegations* that may or may not vaguely relate to some Causes of Action against a subset of Defendants.

The new “evidence” proffered by the Litigation Trustee in paragraph 6 of the Response plainly fails to establish that pre-confirmation antagonism existed with respect to each Cause of Action asserted against the Former Employee Defendants:

- The Official Committee of Unsecured Creditors (the “*Committee*”) sought transfer of venue from the District of Delaware to the Northern District of Texas on the ground that the Bankruptcy Court had “intimate familiarity” with the Debtor and the Defendants.
- In objecting to “various motions” in the Bankruptcy Case, the Committee asserted that a “variety of courts . . . have made troubling findings in recent years” regarding Dondero and its principals.
- The Debtor and the Committee entered into a stipulation that allowed the Committee to “investigate and pursue estate causes of action against Dondero, Okada, Scott, and other former insiders of the Debtor and related entities.”
- Pre-confirmation, the Committee filed a complaint against Dondero, Dugaboy, Scott, and the CLO Holdco-related defendants with respect to an alleged transfer of approximately \$24 million in assets.
- After Dondero resigned from the Debtor, the Debtor commenced an action against Dondero accusing him of postpetition interference with the Debtor’s operations and management of assets.
- On *April 15, 2021*, the Debtor filed a motion seeking approval of a settlement with UBS in which the Debtor asserted that “Dondero and Ellington moved assets with a face value of \$300 million out of the reach of creditors” and that “Ellington and Leventon concealed the transfer from the Debtor.”

These newly-raised “facts” suffer from a host of problems:

- They rely upon nothing more than vague allegations made in motions and proceedings, not even factual determinations. The Litigation Trustee does not even attempt to tie any of these allegations to any Causes of Action asserted in the Complaint.
- The Former Employee Defendants were not parties to any of the motions or proceedings referenced by the Litigation Trustee. With the exception of the CLO Holdco adversary proceeding and the action brought against Dondero relating to his postpetition conduct, none of the motions was directed at any of the Defendants.
- The Litigation Trustee does not specifically refer to Ellington or Leventon and makes no effort to connect the Causes of Action to any investigation conducted by

the Committee or any motion filed during the Debtor's chapter 11 case. Moreover, mere investigation of *potential* claims does not constitute "antagonism." *See Tex. United House. Program*, 2017 U.S. Dist. LEXIS 140992, at *13-15 (noting that an actual dispute concerning the debts related to the claims predated the bankruptcy plan). In any event, the Committee took no actions against any of the Defendants prior to confirmation of the Plan. Indeed, more than five months after confirmation of the Plan, the Committee filed broad 2004 discovery requests on behalf of the Litigation Trustee (then an adviser to the Committee), in which the Committee asserted that it needed such information to uncover any "potential causes of action" that could be brought against the Former Employee Defendants and other Defendants.⁵

- The Litigation Trustee observes that the *Motion of the Official Committee of Unsecured Creditors For An Order Transferring Venue of this Case to the United States Bankruptcy Court for the Northern District of Texas*, filed early in the Bankruptcy Case on December 4, 2019 [Bankr. Dkt. 85] (the "***Motion to Transfer***"), specifically mentions Ellington and Leventon. *See* Response ¶ 6. However, that motion only mentions that Ellington and Leventon, as well as "numerous other employees of the Debtor," had given testimony in the Acis Capital Management, L.P. involuntary proceeding. *See* Motion to Transfer ¶¶ 2, 9. It did not suggest any bad acts by Ellington or Leventon or claims against them. Indeed, the Motion to Transfer also cites the actions and testimony of Thomas Surgent and David Klos, two current Debtor employees assisting the Litigation Trustee in asserting his claims. *Id.* ¶ 9, Ex. C ¶13, 14, 30, 34, and 43.
- The January 9, 2020 settlement that permitted the Committee to pursue claims against Dondero and his affiliates (*see* Response ¶ 6) specifically prohibited the Committee from pursuing claims against "any then-current employee of the Debtor" such as Ellington and Leventon, and never even mentions Leventon's name to differentiate him from the other approximately 150 employees of the Debtor at the time. *See* Bankr. Dkt. 281-1 at 2-3 (giving the Committee the right to pursue Estate Claims).
- The only allegations related to Ellington and Leventon on which the Litigation Trustee now purportedly relies were made in April of 2021, ***two months after confirmation of the Plan***. Clearly, post-confirmation statements cannot be used to establish pre-confirmation antagonism.

The Litigation Trustee has access to all of the Debtor's documents and has had six months after the filing of the Complaint to come up with facts to support the existence of pre-confirmation

⁵ *See Motion of the Official Committee of Unsecured Creditors and the Litigation Advisor for Entry of an Order Authorizing the Examination of Rule 2004 Parties Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure*, dated July 29, 2021 [Bankr. Dkt. 2620].

“antagonism” against the Defendants relating to the Causes of Action. All he has conjured up in the Response are pre-confirmation filings that, at most, mention the Former Employee Defendants, but do not make allegations against them, along with one-post confirmation allegation asserted in April 2021. After failing to mention any such “evidence” of antagonism in its briefing before the Bankruptcy Court, these late-added allegations fall woefully short of demonstrating “antagonism” under any legal standard. The Litigation Trustee has not met his burden to establish antagonism with respect to each Non-Core Cause of Action asserted against the Former Employee Defendants.⁶

II. That Bankruptcy Courts Routinely Consider Tax Matters Is Irrelevant to Determining Whether Mandatory Withdrawal of the Reference Is Warranted for the Fraudulent Transfer Claims under 28 U.S.C. § 157.

As set forth more fully in the *Reply in Support of the Limited Objection of the Okada Parties to Report and Recommendation of the Bankruptcy Court Regarding Motion to Withdraw*

⁶ While not the Former Employee Defendants’ burden, substantial evidence affirmatively demonstrates that antagonism did not exist between them and the Debtor pre-confirmation. The Debtor offered the Former Employee Defendants the same releases as the other 100+ employees as late as October 2020. *See Second Amended Plan of Reorganization of Highland Capital Management, L.P.* at art. I.B.105, dated October 25, 2020 [Bankr. Dkt. 1287]. The Debtor stated on October 27, 2020, as part of the Disclosure Statement approval hearing (“**Disclosure Statement Hearing**”), “that the Debtor is not aware of any claims that exist against any of these parties being released,” and that “the Committee has not identified any such claims yet.” Disclosure Statement Hr’g Tr. [Bankr. Dkt. 1312] at 15:25 – 16:7. The Debtor argued, “Whether it’s because of the animus of the Committee members, whether it’s because of the desire to hold them hostage, the bottom line is there is nothing in the record of these cases that the employees who have worked hard should not get a release.” *Id.* at 33:21 – 34:6.

One Committee member opposed granting the releases, arguing, “We’re talking about giving releases out of the gate to a limited number of very senior, very knowledgeable employees who, you know, to use a colloquial term, know where the bodies are buried, know how things were done. That knowledge will be very important to the Litigation Trustee when he comes on the job... If these releases are to be given to these very senior employees who truly know where the bodies are buried, then it ought to only be after . . . providing their knowledge with respect to pursuing these claims [against Dondero affiliates].” *Id.* at 73:2 – 74:3. The Debtor responded, “Now, this is not about claims against individual employees. I think Ms. Mascherin [Committee member’s counsel] was pretty clear about that. It’s being able to use those employees to pursue the agenda of the Litigation Trustee.” *Id.* at 76:1 – 13.

Nevertheless, the Debtor later acceded to the Committee’s demand, and on December 18, 2020, after the filing of the final amended version of the Plan [Bankr. Dkt. 1472], offered Ellington and Leventon a release in exchange for a promise to cooperate with the Litigation Trustee and waiver of a percentage of their unpaid compensation. *See Senior Employee Stipulation and Tolling Agreement Extending Statutes of Limitation*, dated December 18, 2020 [Bankr. Dkt. 1606-3]. As attorneys, Ellington and Leventon could not agree to cooperate in litigation against their former clients. When they declined to take the deal, the Debtor and the Litigation Trustee turned on them post-confirmation and now assert that “antagonism” somehow existed against Ellington and Leventon pre-confirmation.

the Reference [Dkt. 26], which the Former Employee Defendants adopt and incorporate herein, the Defendants have raised a key question of federal tax law as to which courts have disagreed and no precedent exists in the Fifth Circuit: whether section 6502 of the Internal Revenue Code operates as a “look forward” or “lookback” collection statute to enable the IRS to seek the recovery of transfers made by an entity before the IRS ever had a claim against such entity. *See also Limited Objection of the Okada Parties to Report and Recommendation of the Bankruptcy Court Regarding Motion to Withdraw the Reference* ¶¶ 12-20 [Dkt. 17]. The Litigation Trustee’s argument that other bankruptcy courts have addressed tax issues has no bearing on the issue of mandatory withdrawal of the reference. Unlike subject matter jurisdiction, a court does not have an independent duty to determine whether mandatory withdrawal applies, but only may address the issue upon a “timely request” by a party. *See* 28 U.S.C. 157(d).

III. Judicial Economy Mandates that the Court Order Immediate Withdrawal of the Reference.

The Litigation Trustee continues to dodge the question of what harm would result from immediate withdrawal of the reference. Instead, the Litigation Trustee acknowledges that the Bankruptcy Court’s perception of the Defendants and their conduct during the Bankruptcy Case is why the Litigation Trustee wants to keep this action in front of the Bankruptcy Court as long as possible. *See* Response ¶¶ 44-45. The Bankruptcy Court’s perception of the Defendants is (and should be) irrelevant and certainly is not a reason for the Bankruptcy Court to preside over this action until it is trial ready. Further, even if the Bankruptcy Court were to continue to preside over this action until it is trial ready, it would not be appropriate for the Bankruptcy Court to consider “facts” that it believes it knows from matters outside of evidence introduced in this action. *See, e.g., Mirant Corp. v. S. Co.*, 337 B.R. 107, 122 (N.D. Tex. 2006) (“That the bankruptcy judge held a lengthy valuation hearing has little relevance to a determination of values as of the remote

points in time pertinent to the adversary proceeding,” which adversary proceeding was the subject of the motion to withdraw the reference); *SB Int’l, Inc. v. Jindal*, No. 3:06-CV-1174-G ECF, 2007 U.S. Dist. LEXIS 34999, at *4 (N.D. Tex. 2007) (the court cannot take judicial notice of factual findings of other courts).

Because this Court will preside over the trial of this action, it will “serve the interest of judicial economy” for this Court to withdraw the reference immediately at this early stage—where no factual evidence has been put forth to the court—so that this Court can “gain familiarity with the facts of the Adversary Proceeding well before trial, and then hold a jury trial on all of the [Non-Core Causes of Action].” *In re Align Strategic Partners LLC*, No. 16-35702, Adv. Proc. No. 18-03325, 2019 Bankr. LEXIS 1906, at *13 (Bankr. S.D. Tex. Mar. 5, 2019), *reference immediately withdrawn*, Case No. 4:19-cv-00795 (S.D. Tex. Mar. 19, 2019) [Dkt. 5]; *see also Mirant Corp. v. S. Co.*, 337 B.R. 107, 122 (N.D. Tex. 2006) (finding judicial economy promoted by immediately withdrawing the reference to the district court, as it “dispenses with the need for the district court to conduct a de novo review of proposed findings and conclusions of the bankruptcy judge”).

The Bankruptcy Court’s lack of jurisdiction over the Non-Core Causes of Action remains a vital issue, and the Litigation Trustee fails to offer a way to cure this potentially fatal jurisdictional defect. Moreover, the Litigation Trustee has been unable to identify any harm that would occur from such immediate withdrawal. This Court, therefore, should reject the Bankruptcy Court’s recommendation that the Bankruptcy Court preside over this case until it is trial-ready and should withdraw the reference immediately for all purposes.

Dated: May 18, 2022

By: /s/ Debra A. Dandeneau

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Counsel for the Former Employee Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 18, 2022, a true and correct copy of the foregoing was served electronically via the Court's CM/ECF notice system to all counsel of record registered to receive notice.

/s/ Debra A. Dandeneau

Debra A. Dandeneau

EXHIBIT 24

Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations under Employee Bonus Plans and Granting Related Relief

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	
)	Chapter 11
)	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹)	Case No. 19-12239 (CSS)
)	
Debtor.)	

Objection Deadline: December 10, 2019 at 4:00 p.m. (ET)
Hearing Date: December 17, 2019 at 11:00 a.m. (ET)

**MOTION OF THE DEBTOR FOR ENTRY OF AN ORDER
AUTHORIZING THE DEBTOR TO PAY AND HONOR
ORDINARY COURSE OBLIGATIONS UNDER
EMPLOYEE BONUS PLANS AND GRANTING RELATED RELIEF**

The above-captioned debtor and debtor in possession (the “Debtor”) hereby moves this Court (this “Motion”) for entry of an order, in substantially the form attached hereto as **Exhibit A**, authorizing the Debtor to honor, in the ordinary course, obligations under an annual employee bonus plan (the “Annual Bonus Plan”) and a deferred employee bonus plan (the “Deferred Bonus Plan” and together with the Annual Bonus Plan, the “Bonus Plans”) and granting related relief. The Debtor also seeks authority to continue a dividend reinvestment program (the “DRIP”) for all eligible employees.² The Bonus Plans include up to four insiders of the Debtor.

In further support of this Motion, the Debtor respectfully states as follows:

¹ The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

² The DRIP should have been included in the Debtor’s first day employee benefits motion, but was inadvertently omitted.

Jurisdiction

1. This Court has jurisdiction over this Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested herein are sections 105 and 363 of title 11 of the United States Code (the “Bankruptcy Code”).

Background

A. The Debtor’s Bankruptcy Filing

3. On October 16, 2019 (the “Petition Date”), the Debtor commenced this case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

4. The Debtor continues in the possession of its property and continues to operate and manage its business as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

5. No trustee or examiner has been appointed in the Debtor’s chapter 11 case.

6. On October 29, 2019, the United States Trustee appointed the Official Committee of Unsecured Creditors (the “Committee”).

B. The Debtor’s Employees

7. As of the Petition Date, the Debtor employs approximately 76 employees, of whom approximately 55 are salaried employees and approximately 21 are hourly employees (collectively, the “Employees”).

8. The Employees perform critical functions for the Debtor as a global investment and asset manager in the areas of public equities, real estate, private equity, structured credit, and sector and region-specific assets. The Debtor's Employees hold a variety of positions at all levels of the Debtor's operations, including, without limitation, finance, accounting, legal, human resources, portfolio management, and administrative levels.

9. As is standard in the money management industry in which the Debtor operates and competes, a substantial portion of the compensation payable to the Employees consists of bonus compensation. The Debtor's Employees accept much reduced base salaries in consideration of the bonuses that will be paid to them. If the Debtor was unable to pay ordinary course bonuses to all of its eligible Employees, including insiders, the Debtor would likely face a mass exodus of Employees and the morale of its Employees would be severely jeopardized, putting the Debtor's business and restructuring efforts into substantial risk. For instance, the Debtor cannot continue to perform investment management services or to maximize the value of its proprietary and client assets without the services of its qualified and experienced Employees, adversely impacting creditor recoveries. Simply put, the Debtor would be unable to operate in the ordinary course if it is not permitted to continue to honor and pay bonuses to its Employees in the ordinary course.

10. The Debtor's founders, James Dondero and Mark Okada, are not recipients of the proposed payments under the Bonus Plans for purposes of this Motion. No equity holder in the Debtor would receive any payment under the Bonus Plans subject to this Motion.

C. The Debtor's Ordinary Course Annual Bonus Plan

11. In 2005, the Debtor developed the Annual Bonus Plan initially referred to as the 2005 HCMLP Bonus Plan. Under the Annual Bonus Plan, all of the Debtor's Employees are eligible for a yearly bonus payable in up to four (4) equal installments, each payable at six month intervals on the last business days of February and August. For example, a cash bonus for each eligible Employee for work performed in calendar year 2018 was awarded in February 2019 pursuant to which installments are payable as follows: February 2019 (part I) (paid prepetition), August 2019 (part II) (paid prepetition), February 2020 (part III – covered by this Motion), and August 2020 (part IV – covered by this Motion). The purpose of the Annual Bonus Plan is to attract the highest quality employees and to incentivize success. Bonuses are awarded on an individualized basis following annual performance reviews and are designed to reward good work and team players. In practice, the Annual Bonus Plan is a necessary component of each Employee's compensation and amounts to payment in lieu of a higher fixed salary.

12. The Debtor estimates that it owes approximately \$5.8 million to approximately 47 Employees for prepetition amounts awarded under the Annual Bonus Plan in February 2019, consisting of approximately \$2,976,917 owed in February 2020 (part III) and approximately \$2,856,250 owed in August 2020 (part IV). Of this amount, approximately \$2.1 million would be payable to no more than four insider Employees.

13. The Annual Bonus Plan amounts are fully accrued liabilities on the Debtor's books, subject to each Employee remaining employed with the Debtor when the

remaining payments are due and payable.³ However, the Annual Bonus Plan is geared towards continuous performance at the highest level possible by each Employee. Payments under the Annual Bonus Plan are staggered over a period of two years and no awards are guaranteed. If an Employee does not meet expectations at any time, he or she can be terminated by the Debtor, in which case any awards payable to such Employee under the Annual Bonus Plan would be forfeited. Even if an Employee is terminated without cause or laid off for any reason, whether in such Employee's control or not, then any awards payable to such Employee under the Annual Bonus Plan would be forfeited. Hence, in order to be entitled to any payments under the Annual Bonus Plan that may be due and owing in February and August 2020, each Employee must continue to perform on a postpetition basis for the Debtor in a manner that warrants payment of such compensation.

14. The Debtor believes that the amounts due and owing under the Annual Bonus Plan to Employees in February and August 2020 are reasonable and appropriate in light of comparable market standards and should be approved by this Court.

D. The Debtor's Ordinary Course Deferred Bonus Plan

15. In approximately 2013, the Debtor implemented the Deferred Bonus Plan to further compensate Employees for extraordinary work. Under the Deferred Bonus Plan, the Debtor's Employees are generally awarded shares of a designated publicly traded stock, which do not vest until 39 months later. The Debtor typically holds the stock until it is fully vested with the Employee. Upon vesting, the Employee may receive the stock or its liquidation value.

³ The Bonus Plan also provides for payment of outstanding bonuses to an Employee (or his or her estate) within 75 days in the event of an Employee's death or disability.

Payments under the Deferred Bonus Plan are only available to currently employed Employees of the Debtor as of the date of vesting. Although all Employees are technically eligible for the Deferred Bonus Plan, it is a less common form of compensation reserved for outstanding Employees. Typically, approximately 40-50 of the Debtor's Employees, including insiders, participate in the Deferred Bonus Plan.

16. Like the Annual Bonus Plan, the Deferred Bonus Plan motivates future performance by each Employee. Payments under the Deferred Bonus Plan are delayed by 39 months and no awards are guaranteed. If an Employee is terminated by the Debtor, with or without cause, any awards payable to such Employee under the Deferred Bonus Plan would be forfeited. Each Employee must therefore continue to perform on a postpetition basis for the Debtor in a manner that warrants payment of such compensation.

17. The Deferred Bonus Plan accrues liabilities on a quarterly basis (3/39) on the Debtor's books. For example, amounts awarded to Employees in February 2017 for work performed during calendar year 2016 under the Deferred Bonus Plan will fully vest in May 2020. The Debtor estimates that it owes approximately \$4,400,000 for prepetition amounts awarded in 2017 under the Deferred Bonus Plan that will vest in May 2020. Of this amount, approximately \$2.8 million would be payable to no more than four insider Employees. These amounts are subject to further fluctuation based on the price of the designated stock as well as reductions based on forfeitures.

18. Separately, the Debtor has an ordinary course profit sharing plan for Employees and reserves the right to seek approval of such plan at a later date. The Debtor also reserves the right to seek approval of a key employee incentive plan for insiders or a key

employee retention plan for non-insiders for performance in calendar year 2019 and beyond.

E. The Debtor's Ordinary Course Dividend Reinvestment Program

19. Both the Employees, including insiders, and the Debtor itself participate in the DRIP, which is considered another benefit plan. NexPoint Advisors (“NPA”), a non-Debtor affiliate of the Debtor, is the sponsor of the plan.

20. The two investment funds in the DRIP are NexPoint Strategic Opportunities Fund (“NHF”) (which pays monthly dividends) and NexPoint Residential Trust (“NXRT”) (which pays quarterly dividends). NHF and NXRT are managed by NPA or a sub-advisor thereof.

21. The DRIP works as follows: If an Employee purchases new shares in either of NHF and/or NXRT, the Debtor funds a 15% gross-up bonus. The Debtor also funds the 15% gross-up on all dividends reinvested.⁴ Employees do not purchase new shares often, but all Employees reinvest dividends. The cost of the DRIP to the Debtor is approximately \$11,300 per month for 2 of 3 months per quarter and approximately \$17,700 for the third month of the quarter, or an average of \$13,400 per month. The Debtor funds its gross-up payments monthly. The DRIP is managed by a third party, the contributions made by the Debtor are included on the Employees' W-2 forms as income, and the individual investment accounts are in the name of each Employee.

22. Separately, the Debtor also participates in the DRIP. Although the Debtor is no longer purchasing new shares, it is still on dividend reinvestment. Its quarterly dividend for

⁴ The Debtor does not fund any amounts in the DRIP program, including gross-ups, for employees of non-Debtor affiliates.

the first and second month of each quarter is approximately \$78,000 and for month 3 is approximately \$165,000. NPA pays the 15% gross-up for the Debtor's purchases/reinvestments.

23. The Debtor seeks to continue the DRIP in the ordinary course, including any component of the DRIP that may have accrued prepetition, which the Debtor does not expect to exceed \$30,000.

Requested Relief

24. By this Motion, the Debtor requests authority to continue to honor and pay amounts due to Employees (including up to four insiders) under the Bonus Plans in the ordinary course.

25. This Motion is made pursuant to sections 105(a) and 363 of the Bankruptcy Code on the grounds that Employee compensation under the Bonus Plans is critical to the Debtor's ongoing operations and any threat of nonpayment under such plans would have a potentially catastrophic impact on the Debtor's reorganization efforts. Absent authority to honor the Bonus Plans in the ordinary course, the Debtor would be unable to sustain operations or maximize the value of its vast portfolio of assets, as Employees would likely abandon the Debtor.

26. The bonus payments sought herein continue to be earned on a postpetition basis. Any Employee who does not perform to expectations can be terminated at any time, with or without cause, which would have the effect of forfeiting any right of such Employee to compensation under the Bonus Plans. Further, the awards under the Bonus Plans do not represent an "extra" payment to Employees, but rather are an integral part of each Employee's compensation. Employees accept reduced salaries in exchange for bonuses. The bonus

payments sought in this Motion represent a substantial portion of each Employee's cash compensation. Through this Motion, the Debtor seeks to protect Employee morale and avoid unmanageable Employee turnover, while continuing its ordinary business practices during this reorganization process.

27. In addition, the Debtor seeks authority to continue the DRIP in the ordinary course for all Employees, including insiders. The Debtor estimates that prepetition amounts that may be due and owing under the DRIP will not exceed \$30,000.

Authority for the Requested Relief

A. The Debtor's Bonus Plans Should Be Authorized Under Sections 105(a) and 363 of the Bankruptcy Code

28. Section 105(a) of the Bankruptcy Code provides, in pertinent part, that a court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of the Bankruptcy Code. Section 363(b)(1) of the Bankruptcy Code authorizes a debtor in possession to use property of the estate other than in the ordinary course of business after notice and a hearing. By contrast, section 363(c)(1) of the Bankruptcy Code authorizes a debtor in possession to use property of the estate in the ordinary course of business without notice and hearing.

29. Delaware bankruptcy courts, including this Court, have approved employee bonus plans that are in the ordinary course of business and based on sound business judgment pursuant to Bankruptcy Code section 363(c)(1). *See In re Blitz U.S.A., Inc.*, 475 B.R. 209 (Bankr. D. Del. 2012) (bonus plan payable to insiders approved as an ordinary course transaction); *In re Global Home Products, LLC*, 369 B.R. 778, 787 (Bankr. D. Del. 2007)

(management incentive plan and sales bonus plan approved as consistent with the ordinary course of business based on sound business judgment); *In re Nellson Nutraceutical, Inc.*, 369 B.R. 787, 796 (Bankr. D. Del. 2007) (same); *In re Forever 21, Inc.*, Case No. 19-12122 (KG) (Bankr. D. Del. Nov. 13, 2019) [Docket No. 426] (authorizing debtors to continue employee compensation and benefit programs and pay certain prepetition obligations related thereto on a postpetition basis including non-insider incentive program); *In re Fred's, Inc.*, Case No. 19-11984 (CSS) (Bankr. D. Del. Sept. 26, 2019) [Docket No. 189] (approving payment of prepetition amounts accrued under non-insider incentive plan); *In re PES Holdings, LLC*, Case No. 19-11626 (KG) (Bankr. D. Del. Aug. 20, 2019) [Docket No. 221] (authorizing debtors to continue employee compensation and benefit programs and pay certain prepetition obligations related thereto on a postpetition basis including non-insider incentive program).

30. The Third Circuit outlined a two-pronged inquiry regarding whether a transaction is in the ordinary course of business in *In re Roth American, Inc.*, 975 F.2d 949, 952-53 (3d Cir. 1992). Under the analysis of *Roth American*, the court must look to (1) whether the transaction is the “sort commonly undertaken by companies in the industry” (deemed the horizontal test) and (2) whether the transaction “subjects a creditor to economic risk of a nature different from those he accepted when he decided to extend credit” (deemed the vertical test). *Id.* (citations omitted). As applied to employee bonus plans, courts focus on whether the program is consistent with industry standards and otherwise beneficial to the debtor, and whether the plan differs from the debtor’s prepetition business practices.

31. In this case, the Debtor’s Annual Bonus Plan has been in place since 2005 and the Deferred Bonus Plan has been in place since 2013. The Debtor merely seeks to continue

to honor its obligations under the Bonus Plans in 2020 in the ordinary course. The Bonus Plans are of the type common within the money management industry and consistent with industry practice that Employees receive reduced salaries with the understanding that their bonus compensation will constitute a substantial portion of their compensation. The Bonus Plans are reasonable and within market norms. The Bonus Plans serve to incentivize the Debtor's Employees going forward and to compensate them for their hard work. The Employees should not be penalized by the circumstances of the bankruptcy and the fact that the bonus payments are payable in installments or deferred until postpetition. Accordingly, the Debtor requests authority to honor its obligations under the Bonus Plans in the ordinary course and consistent with prior practices.

32. Sections 105(a) and 363 of the Bankruptcy Code also provide a sound business basis to allow the Debtor to continue the DRIP in the ordinary course, including satisfaction of any accrued prepetition obligations thereunder. The DRIP is another ordinary course employee benefit that the Debtor should be permitted to honor in order to preserve employee morale.

**B. Payments Under the Debtor's Bonus Plans Are
Not Limited by Section 503(c) of the Bankruptcy Code**

33. Section 503(c) of the Bankruptcy Code prohibits certain transfers to insiders and also certain transfers outside the ordinary course of business. Specifically, section 503(c)(1) provides that: "[T]here shall neither be allowed, nor paid – a transfer made to, or an obligation incurred for the benefit of, *an insider of the debtor* for the purpose of inducing such person to remain with the debtor's business [absent certain stringent exceptions]." 11 U.S.C. §

503(c)(1) (emphasis added). Section 503(c)(3) further provides that: “[T]here shall neither be allowed, nor paid – other transfers or obligations that are *outside the ordinary course of business* and not justified by the facts and circumstances of the case including transfers made to, or obligations incurred for the benefit of, officers, managers, or consultants hired after the date of the filing of the petition.” 11 U.S.C. § 503(c)(3) (emphasis added).

34. In *In re Nellson Nutraceutical, Inc.*, this Court concluded that section 503(c)(1) applies to an ordinary course bonus plan that proposes to compensate insiders. 369 B.R. at 800-801. However, this Court interpreted section 503(c)(1) as limited to “‘a transfer made to . . . an insider of the debtor for the [*primary*] purpose of inducing such person to remain with the debtor’s business.’” *Id.* at 802 (emphasis added). Recognizing that all bonus plans have some retentive effect, this Court concluded that an after-the-fact modification of an ordinary course bonus plan in *Nellson Nutraceutical* was for the primary purpose of motivating employees and, thus, the limitations in section 503(c)(1) were not applicable. *Id.* at 802-803. The employees in that case had done a “good job” and it made “good business sense” to pay them the requested bonuses, especially since modification of the bonus plan was consistent with prepetition practice. *Id.*

35. Here, the same rationale holds true. The Debtor’s Bonus Plans, as they relate to insiders, are not primarily retentive. The Bonus Plans are designed to motivate the Debtor’s Employees, including insiders, to achieve the best possible results for the company as a whole. If an Employee does not perform up to expectations, he or she can be terminated at any time and, as a result of such termination, any rights that such Employee may have had to compensation under the Bonus Plans would be forfeited. An Employee can even be terminated

without cause, such as poor performance by the Debtor as a whole, and such Employee would have no right whatsoever to any payment under the Bonus Plans. Although the amounts owed to insiders under the Bonus Plans were awarded prepetition, they are deferred over a period of years in order to continue to motivate Employees to achieve the highest possible level of performance. The Bonus Plans are anything but mere retention plans – they are focused on incentivizing continuous optimum performance by each Employee and reward each Employee, just like in the *Nellson Nutraceutical* case, for doing a “good job” on a postpetition basis. Hence, section 503(c)(1) of the Bankruptcy Code does not apply to payments under the Bonus Plans.

36. The Bonus Plans are also entirely ordinary course and completely consistent with the Debtor’s prepetition practice such that the limitations of section 503(c)(3) of the Bankruptcy Code also do not apply. *See, e.g., In re Blitz*, 475 B.R. at 214 (rejecting argument by creditors’ committee that 503(c)(3) standard applied to payments under bonus plan, requiring justification as opposed to business judgment; bonus plan deemed ordinary course transaction); *In re Nellson Nutraceutical, Inc.*, 369 B.R. at 800 (same; plain meaning demonstrates 503(c)(3) applicable only to transfers or obligations outside the ordinary course of business). Payments under the Bonus Plans should be governed by section 363 of the Bankruptcy Code.

C. Payments Under the Debtor’s Bonus Plans Are Supported by Sections 105(a) and 363 of the Bankruptcy Code Pursuant to the Necessity of Payment Doctrine

37. The relief requested in this Motion is also supported by the well-established “necessity of payment” doctrine.⁵ The “necessity of payment” doctrine, which has been embraced by the United States Court of Appeals for the Third Circuit, “teaches no more than, if payment of a claim which arose prior to reorganization is essential to the continued operation of the business during reorganization, payment may be authorized even if it is made out of corpus.” *In re Lehigh & New England Rwy. Co.*, 657 F.2d 570, 581 (3d Cir. 1981); *see also Pension Benefit Guarantee Corp. v. Sharon Steel Corp. (In re Sharon Steel Corp.)*, 159 B.R. 730, 736-37 (Bankr. W.D. Pa. 1993) (embracing “necessity of payment” doctrine and citing *Lehigh & New England Rwy. Co.* with approval for payment of prepetition wages). The necessity of payment doctrine “recognizes the existence of the judicial power to authorize a debtor in a reorganization case to pay prepetition claims where such payment is essential to the continued operation of the debtor.” *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 176 (Bankr. S.D.N.Y. 1989).

38. In *Ionosphere Clubs, Inc.*, the bankruptcy court permitted Eastern Air Lines to pay its current employees’ prepetition wages, salaries, medical benefits, and business expense claims, while denying payment to those who were striking. The court relied on its equitable powers under sections 105(a) and 363(b) of the Bankruptcy Code and, in particular, the

⁵ The doctrine was first articulated by the Supreme Court in railroad reorganization cases, *see Miltenberger v. Logansport, C. & S.W. R. Co.*, 106 U.S. 286 (1882), and it has been held to be equally applicable to non-railroad debtor cases. *See, e.g., Dudley v. Mealey*, 147 F.2d 268, 271 (2d Cir. 1945); *In re Gulf Air, Inc.*, 112 B.R. 152, 153 (Bankr. W.D. La. 1989).

“necessity of payment” doctrine, to authorize such payments, recognizing that the debtor had to make the payments in order to retain its current employees and maintain positive employee morale – two factors which were critical to the rehabilitation of the operating debtor. *Id.* at 177 (citing H.R. Rep. No. 595 95th Cong. 1st Sess. 16 (1977)). The court held that the debtor needed to articulate a business justification beyond the appeasement of major creditors to use its cash outside of the ordinary course of business. The debtor did so by demonstrating that it needed to pay prepetition claims owed to currently working employees in order to protect the business, reorganize the business, and maintain positive employee morale. *Id.* at 175.

39. In this case, the Debtor needs to continue to pay the amounts that are due under the Bonus Plans in 2020 in order to maintain its operations and maintain critical Employee morale. Absent a commitment to honor these obligations, the Debtor believes that it likely will face a mass exodus of Employees and its business would grind to a halt. Payments under the Bonus Plans are therefore critical to honoring the Debtor’s commitment to its Employees for their ongoing performance for the Debtor and essential to a successful reorganization.

40. Similarly, the “necessity of payment” doctrine supports approval of the payment of prepetition amounts under the DRIP, which are not expected to exceed \$30,000. The DRIP is another employee benefit program for the benefit of the Employees, including insiders. The Debtor believes that continuance of the DRIP is necessary in order to maintain Employee morale and to avoid any negative impact on the Employees’ regular benefit programs as a result of the ongoing bankruptcy proceedings.

41. The Debtor expects to have sufficient liquidity to continue to honor the Bonus Plans and the DRIP to the extent described herein in the ordinary course of business.

Nothing contained in this Motion, however, shall constitute a request for authority to assume any agreements, policies, or procedures relating to any Employee obligations or benefits.

Notice

42. Notice of this Motion shall be given to the following parties or, in lieu thereof, to their counsel, if known: (a) the Office of the United States Trustee; (b) the Office of the United States Attorney for the District of Delaware; (c) counsel to the Committee; (d) the Debtor's principal secured parties; and (e) parties requesting notice pursuant to Bankruptcy Rule 2002. The Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREFORE, the Debtor respectfully requests that this Court enter an order, substantially in the form attached hereto, granting the relief requested herein and such other and further relief as this Court deems appropriate.

Dated: November 26, 2019

PACHULSKI STANG ZIEHL & JONES LLP

/s/ James E. O'Neill

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*Proposed Counsel for the Debtor
and Debtor in Possession*

EXHIBIT 25

Isaac Leventon's 2018, 2017, and 2016 Compensation and Benefit Statements

Isaac Leventon
Compensation and Benefit StatementJob Title: Assistant General Counsel
Department: Legal**EARNINGS AND AWARDS**

2018 Base Salary (as of 12/31/18) \$235,000

2018 Combined Performance and Retention Bonus (breakdown below): \$400,000

2018 Performance Cash Bonus Award \$100,000

- The Performance Bonus will be paid on February 28, 2019 as an award for your 2018 performance

2018 Retention Bonus Award

- A Retention Bonus of \$100,000 will be paid on each of the following date(s) as an employee retention incentive: August 30, 2019, February 28, 2020, August 31, 2020

2018 Other Awards

401(k) Match \$ 4,800

Estimated 2018 Profit Sharing (will be contributed in 2019) \$ 20,625

*Final profit sharing award subject to passing IRS mandated testing

2018 Deferred Compensation Award \$ 75,000

- Award composition and details to be finalized by April 30, 2019
- Award vests May 31, 2022
- Employee must be employed on vesting date to receive and vest in award

2018 Total Earnings and Awards **\$735,425****HIGHLAND PAID BENEFITS**

Medical & Dental Insurance \$ 26,355

Life, AD&D and Disability Insurance \$ 1,210

Executive Life Insurance \$ 585

Daily Catered Lunches \$ 3,000

Parking \$ 1,080

Gym Membership \$ 264

2018 Estimated Total Value of Highland Paid Benefits **\$ 32,493**

TOTAL COMPENSATION PACKAGE **\$767,918**

Isaac Leventon

Compensation and Benefit Statement

Job Title: Assistant General Counsel
Department: Legal

EARNINGS AND AWARDS

2017 Base Salary (as of 12/31/17) \$220,000

Effective March 1, 2018, your new base salary will be: \$235,000

2017 Combined Performance and Retention Bonus (breakdown below): \$400,000

2017 Performance Cash Bonus Award \$ 100,000

- The Performance Bonus will be paid on February 28, 2018 as an award for your 2017 performance

2017 Retention Bonus Award

- A Retention Bonus of \$ 100,000 will be paid on each of the following date(s) as an employee retention incentive: August 31, 2018, February 28, 2019, August 30, 2019

2017 Other Awards

401(k) Match \$ 4,800

Estimated 2017 Profit Sharing (will be contributed in 2018) \$ 20,250

*Final profit sharing award subject to passing IRS mandated testing

2017 Deferred Compensation Award \$ 68,000

- Award composition and details to be finalized by March 31, 2018
- Award vests May 31, 2021
- Employee must be employed on vesting date to receive and vest in award

2017 Total Earnings and Awards \$713,050

HIGHLAND PAID BENEFITS

Medical & Dental Insurance \$ 26,246

Life, AD&D and Disability Insurance \$ 1,153

Executive Life Insurance \$ 585

Daily Catered Lunches \$ 3,000

Parking \$ 1,080

Gym Membership \$ 264

2017 Estimated Total Value of Highland Paid Benefits \$ 32,328

TOTAL COMPENSATION PACKAGE \$745,378

Waiver and Release Payment in 2017 \$ 4,400

Isaac Leventon

Compensation and Benefit Statement

Job Title: Assistant General Counsel
Department: Legal

EARNINGS AND AWARDS

2016 Base Salary (as of 12/31/16) \$220,000

2016 Combined Performance and Retention Bonus (breakdown below): \$350,000

2016 Performance Cash Bonus Award \$ 87,500

- The Performance Bonus will be paid on February 28, 2017 as an award for your 2016 performance

2016 Retention Bonus Award

- A Retention Bonus of \$ 87,500 will be paid on each of the following date(s) as an employee retention incentive: August 31, 2017, February 28, 2018, August 31, 2018

2016 Other Awards

401(k) Match \$ 10,322

Estimated 2016 Profit Sharing (will be contributed in 2017) \$ 19,875

*Final profit sharing award subject to passing IRS mandated testing

2016 Deferred Compensation Award \$350,000

- Award composition and details to be finalized by March 31, 2017
- Award vests May 31, 2020
- Employee must be employed on vesting date to receive and vest in award
- \$300,000 of this award is due to your work on a special project

2016 Total Earnings and Awards **\$950,197**

HIGHLAND PAID BENEFITS

Medical & Dental Insurance \$ 24,281

Life, AD&D and Disability Insurance \$ 1,153

Executive Life Insurance \$ 585

Daily Catered Lunches \$ 3,000

Parking \$ 1,080

Gym Membership \$ 264

2016 Estimated Total Value of Highland Paid Benefits **\$ 30,363**

TOTAL COMPENSATION PACKAGE **\$980,560**

EXHIBIT 26

Appellee's Motion to Dismiss Appeal as Equitably Moot

No. 21-10449

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

In the Matter of: Highland Capital Management, L.P.

Debtor.

**NEXPOINT ADVISORS, L.P.; HIGHLAND CAPITAL MANAGEMENT FUND
ADVISORS, L.P.; HIGHLAND INCOME FUND; NEXPOINT STRATEGIC
OPPORTUNITIES FUND; HIGHLAND GLOBAL ALLOCATION FUND; NEXPOINT
CAPITAL, INCORPORATED; JAMES DONDERO; THE DUGABOY INVESTMENT
TRUST; GET GOOD TRUST,**

APPELLANTS

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.

APPELLEE

**ON DIRECT APPEAL FROM THE UNITED STATES BANKRUPTCY COURT FOR THE
NORTHERN DISTRICT OF TEXAS
BANKRUPTCY CASE NO. 19-34054-11 (SGJ)**

APPELLEE'S MOTION TO DISMISS APPEALS AS EQUITABLY MOOT

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ATTORNEYS FOR APPELLEE

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons and entities, as described in the fourth sentence of Rule 28.2.1, have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

1. **Appellants:**

NexPoint Advisors, L.P.

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Highland Income Fund

NexPoint Strategic Opportunities Fund

Highland Global Allocation Fund

NexPoint Capital, Inc. (collectively, the “Funds”)

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Get Good Trust
The Dugaboy Investment Trust (collectively, the “Trusts”)

Counsel for the Trusts:
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2. **Appellee (Debtor):**

Highland Capital Management, L.P.

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/s/Zachery Z Annable
Zachery Z. Annable

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TABLE OF AUTHORITIES

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STATUTES

11 U.S.C. § 1101(2)12

Appellee and Debtor Highland Capital Management, L.P., (“Debtor” or “Highland”) respectfully moves this Court to dismiss, as equitably moot, Appellants’ consolidated appeals from the bankruptcy court’s *Order Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* (the “Confirmation Order” or “CO”).¹

PRELIMINARY STATEMENT

This Circuit has long recognized that there are circumstances in which appellate courts can no longer equitably “order fundamental changes in reorganization cases.” *Hilal v. Williams (In re Hilal)*, 534 F.3d 498, 500 (5th Cir. 2008) (quoting *Manges v. Seattle-First National Bank (In re Manges)*, 29 F.3d 1034, 1039 (5th Cir. 1995)). That doctrine of equitable mootness safeguards third parties’ reasonable reliance on an unstayed bankruptcy court’s order confirming a reorganization plan, and avoids value-destructive attempts to unwind the many intricate transactions that take place upon a plan’s effectiveness and consummation.

All three factors this Court uses to evaluate the equitable mootness of a confirmation appeal in Chapter 11 bankruptcy cases favor dismissal of the consolidated appeals.

First, there is no dispute that Appellants did not obtain a stay of the Confirmation Order pending their appeals. They requested a stay, but failed to

¹ ROA.4-93. Attached to the Confirmation Order is the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)*, including certain amendments filed on February 1, 2021 (as amended, the “Plan”) ROA.95-164, 1427-74. All capitalized terms used but not defined herein have the meanings given to them in the Plan.

satisfy any court that they met the standards for obtaining temporary relief from the bankruptcy court's order. And when Appellants were seeking a stay, they explicitly did so on the ground that, without a stay, their appeals were likely to be dismissed as equitably moot once the Plan went effective and was substantially consummated.

Second, the Plan *has* gone effective and *has* been substantially consummated. The Plan was confirmed on February 22, 2021 and its Effective Date occurred on August 11, 2021. Since the Effective Date, there has been a flurry of activity implementing the Plan. New legal entities have succeeded the Debtor. A third party, with no prior role in the case, has infused \$45 million in exit financing into the reorganized entities. And significant distributions have already been made to numerous creditors—including sizable payments to settle previously outstanding, but now resolved, litigation against the estate.

Finally, knocking the props out from under the confirmed and consummated Plan would jeopardize numerous third parties' reasonable reliance on the Plan. The new lender invested in the Reorganized Debtor in reliance on the Plan; creditors have justifiably relied on the payments they have already received; and individuals and new entities have been depending on the Plan's safeguards from Appellants' incessant litigation campaign while they have been working to consummate and implement the reorganization for the benefit of creditors. Reversing the Confirmation Order now—which is what every Appellant explicitly asks this Court to do on each and every issue in these appeals—would generate untold chaos to the

substantial and irreversible detriment of these third parties. Indeed, it may no longer even be realistically possible to put the genie back in the bottle.

These appeals should be dismissed as equitably moot.

BACKGROUND

As the bankruptcy court aptly recognized, this is anything but a “garden variety Chapter 11 case.”² ROA.9-10, CO ¶4. Highland, a registered investment advisor responsible for a complex web of funds and portfolios, was not pushed into bankruptcy by high loan debt, depressed cash flows, or any of the other usual reasons that companies find themselves in financial trouble. ROA.11-12, CO ¶8. Rather, Highland was compelled to seek bankruptcy protection because of an onslaught of litigation and judgments against it resulting from its history as an aggressive “serial litigator.” ROA.11-12, 58-59, CO ¶¶8, 77. Indeed, nearly all of Highland’s major creditors were either entities that held awards or claims against it or vendors or attorneys that worked for Highland during its various litigation campaigns but had not been paid. ROA.11-15, CO ¶¶8-10.

Highland’s litigious history foreshadowed its litigious bankruptcy. Indeed, Highland’s co-founder, Appellant James Dondero,³ threatened to “burn the place

² A comprehensive summary of Highland’s bankruptcy case and related background facts is found in Appellee’s Brief on the merits of the appeals filed contemporaneously with this motion.

³ Mr. Dondero was removed (with his agreement) from his control positions with the Debtor effective January 9, 2020 at the request of the Unsecured Creditors’ Committee (the “Committee”) and the U.S. Trustee who were concerned about the Debtor’s ability to act as a fiduciary because of Dondero’s well-known history of self-dealing, fraud, and other misconduct. On that date, the bankruptcy court approved a corporate governance settlement which created both an independent board of directors and well as certain operational protocols. ROA.14-18, CO ¶11-14.

down” if he didn’t get his way during plan negotiations. ROA.1592, 2/2/21 Tr. at 105:10-20. He did not get his way, and since then he and his related entities, including the other Appellants, have challenged every jot and tittle through (and beyond) confirmation of Highland’s reorganization Plan. *See* ROA.58-60, CO ¶¶77-78.⁴

Nevertheless, with the assistance of accomplished bankruptcy mediators, Highland and its key constituencies settled their differences and agreed on the terms of Highland’s reorganization. ROA.18-19, CO ¶15. In a resolution that the bankruptcy court called “nothing short of a miracle,” Highland’s Plan proposed to form a Claimant Trust and Litigation Sub-Trust to manage and sell assets, and pursue claims against, among others, the Appellants, over the period of time necessary to accomplish its tasks for the benefit of Highland’s creditors (including its many litigation adversaries). *Id.* That settlement and the resulting Plan allowed Highland to avoid a free-fall liquidation and fire-sale of its assets that would have been to the detriment of all its creditors. Not surprisingly, creditors holding 99.8% of the value of the unsecured claims against Highland supported the Plan. ROA.9, CO ¶3.

To ensure the Plan’s success, end the constant litigation, and allow Highland’s successors to focus on maximizing creditor distributions through an orderly monetization of its assets, the Plan (i) enjoined actions designed to interfere with the

⁴ This pattern of harassment has continued post-confirmation. Since confirmation, additional lawsuits have been filed by Appellant Dondero and other Dondero-related entities not party to this appeal and Highland has been forced to defend against actions taken by Dondero and other Dondero-related entities with contempt motions, which have been granted.

Plan’s implementation and consummation (the “Injunction”), (ii) exculpated certain parties for their acts taken in support of the Plan that were not grossly negligent, taken in bad faith, willful, or criminal (the “Exculpation”), and (iii) required the bankruptcy court to pre-approve certain lawsuits against Highland’s successors and other bankruptcy participants as being colorable before they could be filed and proceed in whatever court would have jurisdiction over such claims (the “Gatekeeper Provision”). *See generally* ROA.8-9, 34-35, 51-62, CO ¶¶2, 42, 70-81; ROA.147-151, Plan Art. IX.C, D, F. These three “Plan Protections,” the bankruptcy court found, are “integral elements of the transactions incorporated into the Plan”; “inextricably bound with the other provisions of the Plan”; and “confer material benefits on, and are in the best interests of, the Debtor, its Estate, and its creditors.” ROA.51-52, CO ¶70.

Although Highland was able to resolve most parties’ objections to its Plan prior to confirmation, Appellants persisted in challenging the Plan Protections and certain other key plan provisions. The bankruptcy court held a two-day evidentiary hearing, after which it denied Appellants’ objections and entered an order confirming the Plan on February 22, 2021. *See generally*, ROA.4-93, CO. In doing so, the bankruptcy court acknowledged Appellant Dondero as a “serial litigator” who owns or controls the other Appellants, each of which is “marching pursuant to the orders of Mr. Dondero.” ROA.23, CO ¶19. The bankruptcy court explicitly questioned Appellants’ “good faith” in objecting to the plan, especially given the

“noteworthy” “remoteness of their economic interests” in the issues they were raising and in the estate more generally. ROA.20-21, CO ¶17. The bankruptcy court explained that, based on the record, it had “good reason to believe that these parties are not objecting to protect economic interests they have in the Debtor but to be disruptors.” *Id.* The mere fact that Dondero “wants his company back,” the court emphasized, “is not a good faith basis to lob objections to the Plan.” *Id.*

Appellants appealed,⁵ and sought a stay of the confirmation order from the Bankruptcy Court,⁶ the District Court⁷ and this Court.⁸ When seeking a stay, Appellants acknowledged that, without a stay, Highland’s confirmed Plan would become effective and be substantially consummated, thereby likely rendering their appeals equitably moot. Every court from which Appellants sought a stay nevertheless denied their applications and permitted the plan to go effective and be consummated.^{9 10 11}

Just as Appellants predicted, Highland’s confirmed Plan has since gone effective and been substantially consummated. On August 11, 2021, Appellants filed a Notice of Effective Date in the bankruptcy court. [D.I. 2700]. Since the

⁵ D.I. 1957, 1966, 1970, and 1972.

⁶ D.I. 1955, 1967, 1971, and 1973.

⁷ District Court Case Nos. 3:21-cv-550 (Docket No. 5); 3:21-cv-538, 3:21-cv-539 and 3:21-cv-546 (consolidated).

⁸ Fifth Cir. Case No. 21-10449, Document 515869234.

⁹ D.I. 2084 and 2095.

¹⁰ Fifth Cir. Case No. 21-10449, Document 515906886.

¹¹ District Court Case Nos. 3:21-cv-550, Docket No. 18.

Effective Date, numerous transactions and events have taken place that have substantially consummated the confirmed Plan.

For example, a \$45 million exit facility with Blue Torch Capital (“Blue Torch”) has been consummated (the “Exit Facility”), under which Blue Torch has already funded (i) a \$25 million term note issued by the Reorganized Debtor and (ii) a \$20 million term note issued by a portfolio company indirectly owned by the Reorganized Debtor (the “Portfolio Company”). Moreover, all claims required to be paid on the Effective Date (approximately \$2.2 million) have been paid and distributions totaling \$5.1 million have been paid to holders of allowed Convenience Class Claims. And Highland has assumed contracts necessary for the Reorganized Debtor’s and Claimant Trust’s operation—including contracts under which they manage 20 collateralized loan obligations with approximately \$700 million in assets—and made cure payments in the amount of \$525,000 to the applicable counterparties.

In addition, as set forth in the *Declaration of James P. Seery* filed in support of this Motion:

- The Debtor’s prepetition limited and general partnership interests have been cancelled and cease to exist and the post-petition court-approved independent directors have resigned.
- A Claimant Trust has been established as a Delaware liquidating trust, and new limited partnership interests have been issued to the Claimant Trust as the sole limited partner of the Reorganized Debtor.

- HCMLP GP LLC (“New GP”) has been incorporated as a wholly owned subsidiary of the Claimant Trust, and is the Reorganized Debtor’s general partner.
- All of the Debtor’s former assets have been transferred to the Reorganized Debtor or to the Claimant Trust, as applicable.
- The Reorganized Debtor obtained a new EIN as of the Effective Date, employs 12 people under employment contracts and is withholding taxes under the new EIN.
- The Claimant Trust’s owners are the Claimant Trust Beneficiaries, comprised of the holders of Class 8 and Class 9 claims under the Plan.
- The Claimant Trust Oversight Committee (“TOC”) has been appointed to manage and oversee the Claimant Trust and consists of designees of two of the largest creditors of the Debtor and a third independent director with no prior involvement with Highland or the bankruptcy case. [D.I. 2801]
- A Litigation Sub-Trust also has been created, as a sub-trust of the Claimant Trust, and Marc Kirschner has been appointed as the Litigation Trustee. Mr. Kirschner is a senior managing director at Teneo, and had no involvement with Highland prior to his 2021 retention as a litigation consultant to the Committee. Mr. Kirschner is actively investigating the Debtor’s causes of action and anticipates filing lawsuits on such causes of action on or before October 16, 2021.
- The ownership of certain Estate Claims, as defined in the Plan, has been transferred to the Litigation Sub-Trust.
- An Indemnity Trust has been established as a special-purpose-vehicle collateral trust to secure any obligations to indemnify claims that arise against the Reorganized Debtor, Claimant Trust, Litigation Sub-Trust, Claimant Trustee, Litigation Trustee, or TOC members.
- The Indemnity Trust has been funded with \$2.5 million cash from the Reorganized Debtor and a note issued by the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust in an amount equal to \$25 million less the value of assets held by the Indemnity Trust.

- The Exit Facility is fully guaranteed by the Reorganized Debtor, the Claimant Trust, and the Reorganized Debtor's material operating subsidiaries and secured by substantially all of those guarantors' assets.
- The \$5.1 million already paid to unsecured creditors holding allowed Class 7 Convenience Claims represents 77% of all Class 7 claims filed. The process of resolving and paying additional Convenience Claims is ongoing.
- All claims required to be paid in cash on the Effective Date have been paid. These claims totaled approximately \$2.2 million in the aggregate and included a cash payment to major litigation creditor Acis as required under the Acis settlement agreement.
- Class 2 secured creditor Frontier State Bank ("Frontier") has been paid all accrued and unpaid interest outstanding on the Frontier note in the approximate amount of \$500,000, and the Reorganized Debtor has issued the New Frontier Note to Frontier in the principal amount of approximately \$5.2 million secured by approximately \$23 million of the Reorganized Debtor's assets.
- Payments in the aggregate amount of \$165,412 have been made to holders of Other Secured, Priority Non-Tax and Priority Tax Claims.
- Due to the occurrence of the plan's effective date, Jefferies, a secured creditor of Highland, has withdrawn its claim against the Debtor.

Despite all of this activity implementing and substantially consummating Highland's confirmed Plan, these appeals assert the Plan should not have been confirmed and must be reversed on multiple grounds. Specifically, Appellants assert that the Plan was not confirmable with the Plan Protections, because it violates the absolute priority rule, because of Debtor's pre-confirmation reporting deficiencies, and because of the discharge being granted to the Debtor. Each Appellant thus seeks, on one or more of those grounds, this Court's reversal of the Confirmation Order

and remand to the bankruptcy court for new plan proceedings. Advisors Br. at 43; Trusts Br. at 21; Funds Br. at 34; Dondero Br. at 2.

ARGUMENT

A bankruptcy appeal from a confirmed plan “is equitably moot” whenever the plan “has been so substantially consummated that a court can order no effective relief even though there may still be a live dispute between the parties.” *TNB Fin., Inc. v. James F. Parker Interests (In re Grimland, Inc.)*, 243 F.3d 228, 231 (5th Cir. 2001). This Circuit has repeatedly emphasized that “there is a point beyond which [appellate courts] cannot order fundamental changes in reorganization cases.” *In re Hilal*, 534 F.3d at 500 (quoting *In re Manges*, 29 F.3d at 1039). The dismissal of confirmation appeals on equitable-mootness grounds thus “rests on the need for finality, and the need for third parties to rely on that finality, in bankruptcy proceedings.” *In re Grimland*, 243 F.3d at 231.

When determining whether an appeal from a bankruptcy court’s confirmation order should be dismissed as equitably moot, this Court has articulated a three-part inquiry: (1) whether a stay was obtained, (2) whether the plan has been “substantially consummated,” and (3) whether the relief requested would affect either the rights of parties not before the court or the success of the plan. *Bank of New York Trust Co., NA v. Official Unsecured Creditors’ Committee (In re Pacific Lumber Co.)*, 584 F.3d 229, 240 (5th Cir. 2009). All three of those factors demonstrate the equitable mootness of Appellants’ challenges to Highland’s confirmed Plan.

A. Appellants Did Not Obtain a Stay Pending Appeal.

“The first question in a mootness inquiry is whether the appellants secured a stay to prevent execution of the Plan.” *In re Berryman Prods., Inc.*, 159 F.3d 941, 944 (5th Cir. 1998). In that regard, it makes no difference whether the Appellants tried to secure a stay; the only relevant issue is whether they actually obtained one. *Id.* (rejecting argument that the diligent but unsuccessful pursuit of stay is sufficient); *see also In re UNR Industries, Inc.*, 20 F.3d 766, 770 (7th Cir. 1994) (“A stay not sought, and a stay sought and denied, lead equally to the implementation of the plan of reorganization.”)

Here, Appellants sought a stay of the Confirmation Order—arguing, among other things, that an unstayed order was likely to result in a consummated plan that would contribute to equitably mooted their appeals.¹² But their stay motions were denied, and the confirmed Plan was allowed to go effective and be consummated notwithstanding their pending appeals.

B. The Plan Has Been Substantially Consummated.

The Bankruptcy Code defines “substantial consummation” as the “(A) transfer of all or substantially all of the property proposed by the plan to be transferred; (B) assumption by . . . the successor to the debtor . . . of the business or of management of all or substantially all of the property dealt with by the plan; and

¹² See Advisors Stay Motion (D.I. 1955) ¶¶49-50; Funds Stay Brief (D.I. 1967) ¶¶22, 38; Advisors Stay Brief (Docket No. 3) ¶2; Fifth Cir. Case No. 21-10449, Advisors Stay Brief, Document 515869234 at pp. 19, 23; Advisors Reply, Document 515885828 at p. 9.

(C) commencement of distribution under the plan.” 11 U.S.C. § 1101(2).¹³

Highland’s plan has been substantially consummated.

First, all of the property of the Debtor’s estate has been transferred to the Reorganized Debtor or Claimant Trust pursuant to the Plan. Seery Decl. ¶11(i). The Estate Claims (*i.e.*, certain causes of action that formerly belonged to the Debtor) have been transferred to the Litigation Sub-Trust. *Id.* ¶11(j). The general and limited partnership interests of the Debtor have been extinguished. *Id.* ¶11(e). The independent directors have all resigned their positions. *Id.* ¶11(b).

Second, the Reorganized Debtor and Claimant Trust have completely taken over the management of Highland’s business and former property for purposes of managing an orderly wind-down of its asset portfolios and making further distributions to creditors. Seery Decl. ¶¶9, 11. The new corporate ownership structure contemplated by the Plan has been put into place. The Reorganized Debtor has issued partnership interests to its sole limited partner, the Claimant Trust, and to New GP, a wholly owned subsidiary of the Claimant Trust. *Id.* ¶11(a), (c), (f), (g), (h), and (t). The TOC has been put into place and has appointed James Seery, the Reorganized Debtor’s chief executive officer, as trustee of the Claimant Trust. *Id.* ¶11(c).

¹³ Substantial consummation is determined based on the extent of plan consummation at the time this Court reviews the mootness issue. *In re Manges*, 29 F.3d at 1041 (“Mootness is evaluated by the reviewing court, which may take notice of facts not available to the trial court if they go to the heart of the court’s ability to review.”).

Finally, distributions to Debtor's creditors are well underway. As set forth in detail in the Seery Declaration, the Reorganized Debtor has made distributions to various creditors, including Acis, Frontier, and various secured, tax and priority creditors in a total amount of approximately \$2.8. Seery Decl. ¶11(m), (o), and (s). Cure payments totaling approximately \$500,000 has been paid to counterparties under assumed executory contracts. *Id.* ¶11(u). An additional \$5.1 million has been distributed to the holders of Convenience Class claims, which represents the payment in full of 77% of such claims. *Id.* ¶11(r).

And that's not all. The Reorganized Debtor also has issued an approximately \$6 million new secured note to Frontier, as contemplated by the Plan, and entered into a \$45 million fully-funded Exit Facility with Blue Torch, a U.S.-based middle market specialty lender. Seery Decl. ¶11(o) and (p). Additionally, an Indemnity Trust has been created to pay any indemnification claims that may arise and funded with \$2.5 million; the Reorganized Debtor, the Claimant Trust and the Litigation Sub-Trust have also issued a \$25 million note to the Indemnity Trust. *Id.* ¶11(k) and (l).

All of these actions demonstrate the Plan's substantial consummation. This Court has explained that "the 'substantial consummation' yardstick" was adopted as part of the equitable-mootness analysis "because it informs our judgment as to when finality concerns and the reliance interests of third parties upon the plan as effectuated have become paramount to a resolution of the dispute between the parties

on appeal.” *U.S. ex rel. FCC v. GWI PCS 1, Inc. (In re GWI PCS 1, Inc.)*, 230 F.3d 788, 801 (5th Cir. 2000) (citing *In re Manges*, 29 F.3d at 1041). Here, the occurrence of substantial consummation of the Plan, as defined by the Bankruptcy Code, makes it more likely that the Plan’s reversal or modification will “affect the success of the plan or alter the rights of third parties that have been achieved by its substantial consummation.” *Insurance Subrogation Claimants v. U.S. Brass Corp. (In re U.S. Brass Corp.)*, 169 F.3d 957, 961 (5th Cir. 1999).

C. Appellants’ Requested Relief Would Impair the Plan’s Success and the Rights of Third Parties Relying on the Plan.

Each Appellant seeks nothing less than a complete unravelling of the confirmed Plan and the effectively impossible return of the parties to their *status quo ante*. The Advisors (Br. at 42-43) declare that the Plan’s supposed defects should have “prevented confirmation,” and they ask this Court to “reverse the Confirmation Order and render a decision denying confirmation of the plan.” The Trusts (Br. at 21) also ask this Court to “reverse the Order. . . confirming the Debtor’s Plan. And the Funds (Br. at 34-35) likewise contend that Plan confirmation was “in error,” and ask this Court to “vacate the Confirmation Order” in whole or in substantial part.

Appellants’ requests to reverse and vacate the Confirmation Order are consistent with the challenges they make against the Plan. Appellants seek a renegotiated plan *without* Plan Protections that the bankruptcy court found to be “integral” and “necessary” to the Plan’s success. ROA.51-52, CO ¶70. Not only would reversal of the Confirmation Order upend the reorganization, but there is no

guarantee that a new, confirmable plan could emerge without the Plan Protections. Those Plan Protections, the bankruptcy court correctly recognized, are critical to key individuals' willingness to support and participate in the post-Effective Date implementation and consummation of the Plan, and to the success of the wind-down effort. *See* ROA.51-58, CO ¶¶70-79. Appellants do not challenge those findings on appeal.

Appellants' challenge to the Plan Protections is thus distinguishable from challenges to exculpations and releases in other cases that this Court found not to be equitably moot. In *Pacific Lumber*, for example, the Court proceeded to address the merits of a confirmed plan's exculpation of its sponsor *by rejecting* that sponsor's contention that the provision was "necessary to their bargain" and without which it would have declined to fund the plan. 584 F.3d at 251-52. "Nothing in the record," the court held, suggested the exculpated parties' co-liability on the debtor's obligations, or any other basis on which to believe the exculpation was integral to the plan's success. *Id.* at 252. Indeed, the Court concluded that the plan sponsor had merely "purchased" the exculpation from the debtor, and that there was no reason to believe that the exculpated claims would "swamp . . . the consummated reorganization." *Id.*; *see also In re Hilal*, 534 F.3d 498 (5th Cir. 2008) (meritless challenge to trustee's release not moot where nothing in plan depended on it). In the unique circumstances of this litigious case, by contrast, the bankruptcy court found

that the Exculpation and other Plan Protections are critically important to the reorganization's success.

The Funds (Br. at 34), unique among Appellants, propose, in the alternative, that this Court might simply “vacate the [Confirmation] Order to the extent it approves the [Plan Protections].” Not so. For starters, 11 U.S.C. § 1127(b) prohibits modifications to confirmed plans after substantial consummation. The statutory limit on post-consummation plan modifications reflects Congress's judgment that it is inequitable to adjust plan terms *after* a plan has been implemented and *after* other parties have relied on it. What is more, given the bankruptcy court's unchallenged findings that the Plan Protections are integral to the Plan and necessary to its success, those provisions cannot be surgically excised from the entirety of the Plan.

Appellants' appeals also seek to rejigger class recoveries in order to prevent a supposed violation of the absolute priority rule, ask that the confirmation process be redone from scratch with the benefit of additional Debtor financial disclosures, and seek to reverse the Debtor's discharge—a primary goal of nearly every bankruptcy. These additional challenges to the confirmed-and-consummated Plan aim at its very core. Each would destroy the multilateral settlements that achieved the Plan, and would undermine the basis on which creditors holding 99.8% of the value of unsecured claims against Highland approved the Plan.

Reversal of the Confirmation Order on any of these grounds would harm the numerous innocent third parties who have relied (and continue to rely) on the

confirmed, effective, substantially consummated Plan. Unscrambling the eggs now would substantially harm these parties that have justifiably relied on the Confirmation Order. It would also result in a chaotic, nearly impossible process of trying to reverse transactions, claw back distributions, restore terminated entities, and otherwise walk back a substantially consummated Plan.

For starters, third-party Blue Torch relied upon the effectiveness and consummation of the Plan when it entered into a \$45 million Exit Facility with the Reorganized Debtor and the Portfolio Company. The \$20 million borrowed by the Portfolio Company – a valuable estate asset – were used to refinance a maturing loan. A substantial amount of the \$25 million loan to the Reorganized Debtor has been spent in support of Plan implementation and post-Effective Date activities. A reversal of the Confirmation Order would, among other things, cause the Reorganized Debtor/borrower to cease to exist, throw the Exit Facility into considerable jeopardy and uncertainty, and likely result in the lender's declaration of a material adverse event and acceleration of the full amount of the \$45 million Exit Facility – which is guaranteed by substantially all the assets of the Reorganized Debtor, the Claimant Trust, and the Portfolio Company. It also might imperil Blue Torch's ability to recover through no fault of its own.

Creditors who have already received distributions from the Reorganized Debtor in reliance on the Plan would likely need to restore those funds to the estate and resurrect their discharged claims. Creditors—including Frontier, Acis, and the

holders of Convenience Class claims, priority and tax claims, and assumed contract claims—have already received payments pursuant to the Plan. Indeed, some creditors who received distributions on or after the Plan’s Effective Date were willing to settle their claims against Highland only in exchange for assurances of prompt payment under the confirmed Plan. It would be demonstrably unfair to all of the creditors that have been paid to require them to restore funds to the estate that they have received in good-faith reliance on the confirmed Plan. Attempting to unravel the Plan and the distributions made under it might well result in an untenable, lengthy, and expensive claw back effort between the estate and its creditors.

Moreover, entities and individuals who have already been implementing and consummating the Plan have been doing so in reliance on the Plan Protections that Appellants challenge on appeal. For instance, the Reorganized Debtor’s officers and employees, the Trustees, and TOC members relied on the Confirmation Order and its Plan Protections when they agreed to take their positions. Seery Dec. ¶¶12, 13. They did so knowing that, as the bankruptcy court had found, litigation against them over their implementation and consummation of the Plan would have been “likely” but for the Plan Protections. ROA.55-61, CO ¶¶74-79. Reversing the Plan and thus cancelling the Plan Protections *now* would unfairly deny these individuals, and the successor entities that they manage, the important safeguards under which they reasonably believed themselves to be operating. Not only would these individuals be exposed to litigation for conduct taken after the Effective Date through and

including the date on which the Plan Protections are cancelled, but, based upon the uncontroverted evidence at the confirmation hearing, it is certain that many of the individual protected parties would resign their posts rather than face the onslaught of expected litigation from Dondero, the other Appellants and other Dondero-related entities. That, among the other effects of reversing the Confirmation Order, would disrupt the Reorganized Debtor's operations and result in a significant deterioration in asset values due to uncertainty that a reorganization could ever be achieved.

Importantly, Appellants seeking this chaotic return to bankruptcy have no meaningful financial stake in obtaining such an outcome. As the bankruptcy court found, "the remoteness of [Appellants'] economic interests is noteworthy" and raises serious "questions" about Appellants' "good faith" in objecting to the plan (and, now, pursuing these appeals). ROA.20-21, CO ¶17. Unlike most bankruptcy appeals, therefore, these Plan challenges are not designed to vindicate some perceived economic rights that allegedly were trampled by the confirmed Plan. Rather, it is the Plan's unravelling—full stop—that Appellants are really after. They are, the bankruptcy court had "good reason to believe," acting merely as "disruptors." *Id.* Appellants evidently *want* to bring about the turmoil that would follow the upending of the consummated Plan. Perhaps they have designs on somehow managing to rise from those ashes with Dondero back in control of the estate's assets and its causes of action (including the potential causes of action

against Appellants). Or perhaps they are simply making good on Dondero's explicit threat to "burn the place down" once he was prevented from retaking control.

As this Court stated in *Manges*, when evaluating the likely effect of reversing a consummated reorganization plan on parties not before the court:

We must evaluate these transfers, many of which appear irreversible, against the backdrop of the relief sought—nothing less than a wholesale annihilation of the Plan. All of these third-party recipients and many others have relied upon the Plan, and the irretrievable depletion of estate assets would correspondingly decrease the amounts available to all claimants. In short, we doubt seriously that we could place the estate or the parties back into the *status quo* as it existed before the confirmation order if we were to unravel the Plan at this time.

29 F.3d at 1043. So too here. Numerous creditors and other third parties that are not before this Court have relied on the Confirmation Order, and attempting to return the parties to the *status quo* would be neither feasible nor equitable.

CONCLUSION

Each of the consolidated appeals should be dismissed as equitably moot.

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**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT,
TYPEFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS**

1. This document complies with the word limit of FED. R. APP. P. 5(c)(1) because, including footnotes and excluding the parts of the document exempted by FED. R. APP. P. 32(f), this document contains 5,126 words.
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/s/Zachery Z. Annable

Attorney for Appellee

Dated: October 6, 2021

CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2021, the foregoing motion was electronically filed using the appellate CM/ECF system. I further certify that all participants in this case are registered CM/ECF users and that service will be accomplished via CM/ECF.

/s/Zachery Z. Annable

Attorney for Appellee

No. 21-10449

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

In the Matter of: Highland Capital Management, L.P.

Debtor.

**NEXPOINT ADVISORS, L.P.; HIGHLAND CAPITAL MANAGEMENT FUND
ADVISORS, L.P.; HIGHLAND INCOME FUND; NEXPOINT STRATEGIC
OPPORTUNITIES FUND; HIGHLAND GLOBAL ALLOCATION FUND; NEXPOINT
CAPITAL, INCORPORATED; JAMES DONDERO; THE DUGABOY INVESTMENT
TRUST; GET GOOD TRUST,**

APPELLANTS

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.

APPELLEE

**ON DIRECT APPEAL FROM THE UNITED STATES BANKRUPTCY COURT FOR THE
NORTHERN DISTRICT OF TEXAS
BANKRUPTCY CASE NO. 19-34054-11 (SGJ)**

**DECLARATION OF JAMES P. SEERY IN SUPPORT OF APPELLEE'S
MOTION TO DISMISS APPEAL AS EQUITABLY MOOT**

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**Declaration of James P. Seery, Jr. in Support of Appellees Motion to
Dismiss Appeal as Equitably Moot**

I, James P. Seery, Jr. pursuant to 28 U.S.C. § 1746(a), declare as follows under penalty of perjury:

1. Prior to August 11, 2021, I was the chief executive officer and chief restructuring officer of Debtor Highland Capital Management, L.P. (“Highland” or the “Debtor”) and a member of the independent board of directors of Strand Advisors, Inc., Highland’s former general partner (“Strand”). I was appointed to those roles by order of the Bankruptcy Court dated January 9, 2020 and July 16, 2020 and was not previously affiliated with Highland or any of its affiliates or creditors in any way. I am currently the chief executive of Highland, as reorganized pursuant to the terms of the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* (the “Plan”).¹

2. I have personal knowledge of all facts set forth herein. I submit this Declaration in support of *Highland’s Motion to Dismiss Appeal as Equitably Moot*.

3. On February 22, 2021, the U.S. Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”) entered the *Order Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* (the “Confirmation Order”) which

¹ All capitalized terms used but not defined herein have the meanings given to them in the Plan.

confirmed the Plan. In doing so, the Bankruptcy Court overruled the only objections to confirmation argued at the confirmation hearing, all of which were filed by Appellants and other Dondero-related entities not party to this Appeal.

4. The Debtor filed for chapter 11 bankruptcy on October 16, 2019.

5. On January 9, 2020, the Bankruptcy Court entered an order approving what has been referred to as the “Governance Settlement” which:

a. Created an independent board of directors at Strand, the Debtor’s former general partner, consisting of John Dubel, and retired bankruptcy judge Russell Nelms and me (the “Independent Directors”).

b. Removed James Dondero, one of the Debtor’s founders and ultimate owners, from his control positions at the Debtor and Strand, which removal was negotiated with and agreed to by Mr. Dondero. Mr. Dondero is the 100% owner of Strand. Mr. Dondero remained as an unpaid portfolio manager at the discretion of the Independent Directors until he was asked to resign for taking actions detrimental to the Debtors such as cancelling trades and threatening employees.

c. Imposed a number of stringent operating protocols (the “Protocols” that obligated the Debtor to make detailed disclosures regarding its financial operations and those of its non-debtor subsidiaries and gave the Committee substantial oversight over how the Debtor managed its assets, subsidiaries, and investment vehicles. I was intimately involved with insuring the Debtor’s compliance with these Protocols throughout the case.

d. Granted standing to the Unsecured Creditors’ Committee (the “Committee”) to pursue certain estate claims and causes of action (the “Estate Claims”) against Mr. Dondero, other insiders of the Debtor, and other “Related Entities” (as defined in the Protocols).

e. Prohibited Mr. Dondero from causing any “Related Entity” (as defined in the Protocols) to terminate any agreements with the Debtor.

f. Provided that the Debtor would guaranty the indemnification obligations of Strand to the Independent Directors and would acquire D&O insurance for the benefit of the Independent Directors.

g. Installed the Bankruptcy Court as a “gatekeeper” with respect to any litigation commenced against the Independent Directors, their agents and advisors and exculpated the Independent Directors and their agents and advisors from claims arising from ordinary negligence.

6. On July 16, 2020, the Bankruptcy Court entered the order approving my appointment as Chief Executive Officer and Chief Restructuring Officer of the Debtor effective as of March 15, 2020. This order contained exculpation and gatekeeper protections similar to those set out in the January 9 Order described above. I personally negotiated the gatekeeper and exculpation provisions and required their inclusion in the appointment orders.

7. Throughout the course of the case, I was intimately involved in (i) the negotiation of settlements with various major creditor constituencies such as UBS, Acis and HarbourVest, (ii) the development of plan strategies and negotiation of a potential plan of reorganization with the Committee as well as with Mr. Dondero, (iii) the structure and negotiation of the Plan that was ultimately confirmed by the Bankruptcy Court, and (iv) the day to day operations of the Debtor’s various business operations as well as compliance with the Protocols. During the plan negotiation process in the summer of 2020, Mr. Dondero told me that if he did not get what he wanted he would “burn the place down.”

8. After the entry of the Governance Settlement and escalating in October 2020 when Mr. Dondero was required to resign and it became apparent his plan proposals would not be accepted, every major motion filed by the Debtor and approved by the Bankruptcy Court was appealed by one or more of Mr. Dondero or his other numerous related entities. Additionally, the Debtor has been sued by one or more of Mr. Dondero or his other related entities for actions taken during the case and approved by the Bankruptcy Court. This pattern of harassment has continued post-confirmation with numerous lawsuits being filed by Dondero-related entities necessitating the filing of motions for contempt and causing Highland to incur significant costs in defense of various litigation.

9. The Plan was confirmed on February 22, 2021 after a two-day evidentiary hearing. The Plan provides for the restructuring of the ownership of the Debtor and the creation of a Claimant Trust managed by the Claimant Trustee and a Litigation Sub-Trust managed by the Litigation Trustee. Those trustees will manage certain of the Debtor's businesses in a limited capacity, pursue the Debtor's causes of action, monetize the Debtor's assets and distribute the proceeds to the Debtor's creditors over a period estimated to be 2-3 years, but subject to extension as necessary, to maximize the value of the assets of the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust.

10. After confirmation of the Plan, I was involved in the negotiation and execution of all documents and transactions necessary to reach the Effective Date, including the creation of the Claimant Trust, the Litigation Sub-Trust, the Indemnity Trust, and the finalization of the exit financing discussed below.

11. Subsequently, on August 11, 2021, the Plan went effective (the “Effective Date”) and since that time has been substantially consummated. Since the Effective Date, the following transactions contemplated by the Plan have taken place:

a. The Claimant Trust was created as a Delaware liquidating trust. The owners of the Claimant Trust are the Claimant Trust Beneficiaries (currently, the holders of allowed Class 8 General Unsecured Claims and 9 Subordinated Claims). I serve as the Claimant Trustee.

b. The Independent Directors and the CEO/CRO have each resigned their respective positions with Strand and the Debtor, which no longer exists in its pre-Effective Date form. In addition to serving as the Claimant Trustee, I serve as the chief executive officer of the Reorganized Debtor.

c. The Claimant Trust Oversight Committee (“TOC”) has been appointed to manage and oversee the Claimant Trust and consists of designees of two of the largest creditors of the Debtor and a third independent director with no prior involvement with Highland or the bankruptcy case.

d. The Litigation Sub-Trust has been created as a sub-trust of the Claimant Trust, and Marc Kirschner serves as the Litigation Trustee. Mr. Kirschner is a senior managing director at Teneo, and prior to being retained as the Committee’s litigation consultant in 2021, had no prior involvement with Highland. Mr. Kirschner is actively investigating the Debtor’s causes of action and anticipates filing lawsuits on such causes of action on or before October 16, 2021.

e. The prepetition limited and general partnership interests in the Debtor have been cancelled.

f. New limited partnership interests in the Reorganized Debtor have been issued to the Claimant Trust, which is the sole limited partner of the Reorganized Debtor holding 99% of its partnership interests.

g. HCMLP GP LLC ("New GP") has been incorporated as a wholly-owned subsidiary of the Claimant Trust.

h. New GP is the general partner of the Reorganized Debtor and holds the remaining 1% of its partnership interests.

i. The Debtor's assets have been transferred to the Reorganized Debtor or the Claimant Trust, as applicable.

j. The Estate Claims have been transferred to the Litigation Trust. The Estate Claims include claims against Appellants and other Dondero-related entities.

k. The Indemnity Trust has been created as a special purpose vehicle collateral trust to secure the obligation to pay any indemnification claims that may arise against the Reorganized Debtor, the Claimant Trust and Litigation Sub-Trust, the Trustees or members of the TOC.

l. The Indemnity Trust has been funded with \$2.5 million cash and a note issued by the Reorganized Debtor, the Claimant Trust and the Litigation Sub-Trust in an amount equal to \$25 million less the value of assets held at the Indemnity Trust.

m. All claims required to be paid in cash on the Effective Date have been paid. These claims totaled approximately \$2.2 million in the aggregate and included a cash payment to major litigation creditor Acis as required under the Acis settlement agreement.

n. Class 1 secured creditor Jefferies has withdrawn its claim against the Debtor due to the occurrence of the Effective Date.

o. Class 2 secured creditor Frontier State Bank ("Frontier") has been paid all accrued and unpaid interest outstanding on the Frontier note in the approximate amount of \$500,000, and the Reorganized Debtor has issued the New Frontier Note to Frontier in the principal amount of approximately

\$5.2 million secured by approximately \$23 million of the Reorganized Debtor's assets.

p. A \$45 million exit facility with Blue Torch Capital ("Blue Torch") has been consummated (the "Exit Facility"). Blue Torch has funded (i) a \$25 million term note issued by the Reorganized Debtor and (ii) a \$20 million term note issued by a portfolio company indirectly owned by the Reorganized Debtor. Blue Torch is a middle market lender with no prior history with the Debtor or the bankruptcy case.

q. The Exit Facility is fully guaranteed by the Reorganized Debtor, the Claimant Trust and the Reorganized Debtor's material operating subsidiaries and secured by substantially all the assets of the Reorganized Debtor, the Claimant Trust and the Reorganized Debtor's material operating subsidiaries.

r. Approximately \$5.1 million has been paid to unsecured creditors holding allowed Class 7 Convenience Claims, representing 77% of all Class 7 claims filed. The process of resolving and paying additional Convenience Claims is ongoing.

s. Payments in the aggregate amount of \$165,412 have been made to holders of Other Secured, Priority Non-Tax and Priority Tax Claims.

t. Allowed Class 8 General Unsecured Claims have received their Claimant Trust Interests.

u. Pursuant to the Plan, the Debtor assumed a number of contracts necessary for the continuing operation of the Reorganized Debtor and the Claimant Trust, including contracts pursuant to which it manages 20 collateralized loan obligations with approximately \$700 million in aggregate assets under management. Cure payments in the amount of \$525,000 have been paid to the applicable contract counterparties.

v. The Reorganized Debtor obtained a new EIN on the Effective Date, has 12 employees under employment contracts, and withholds taxes for those employees under the new EIN.

12. When I accepted the positions as an Independent Director and CEO/CRO of the Debtor, I negotiated for and expressly relied on the exculpation

and gatekeeper provisions of the January 9, 2020 and July 16, 2020 orders of the Bankruptcy Court as well as on the indemnification obligations of Strand and the Debtor (including the Debtor's express guaranty of the Strand indemnification obligations which I also required). As with my pre-Effective Date positions as an Independent Director and CEO/CRO of the Debtor, in accepting my position as Trustee of the Claimant Trust and CEO of the Reorganized Debtor, I expressly relied on the exculpation, gatekeeper and indemnification provisions contained in the Plan and the various trust and corporate documents approved as part of the Plan. Those provisions are essential to my being able to administer the Claimant Trust and Reorganized Debtor, effectuate the transactions described above and in the Plan, and operate and administer the assets of the Claimant Trust and Reorganized Debtor in furtherance of the Plan.

13. Based on my experience working as an Independent Director of the Debtor and a professional and investor in reorganized companies, I believe the Litigation Trustee and the members of the TOC are similarly relying on these Plan protections.

Signed this 6th day of October, 2021.

/s/James P. Seery, Jr.

James P. Seery, Jr.

CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2021, the attached Declaration of James P. Seery was electronically filed using the appellate CM/ECF system. I further certify that all participants in this case are registered CM/ECF users and that service will be accomplished via CM/ECF.

/s/Zachery Z. Annable

Attorney for Appellee